

4-20-2010

State v. Betancourt Clerk's Record Dckt. 37139

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37139

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO,

**Plaintiff-
Respondent,**

-vs-

ANICETO BETANCOURT, IV.,

**Defendant-
Appellant.**

**Appealed from the District of the Third Judicial District
for the State of Idaho, in and for Canyon County**

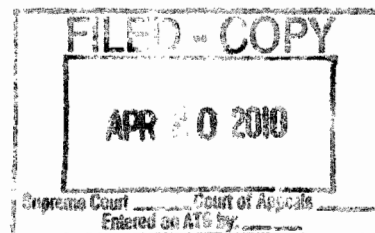
Honorable BRADLY S. FORD, District Judge

Molly Huskey
State Appellate Public Defender
3647 Lake Harbor Lane
Boise, Idaho 83703

Attorney for Appellant

Lawrence G. Wasden
Attorney General
Statehouse
Boise, Idaho 83720

Attorney for Respondent



37139

IN THE SUPREME COURT OF THE
STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-)	
Respondent,)	
	)	Supreme Court No. 37139
-vs-)	
)	
ANICETO BETANCOURT, IV.,)	
)	
Defendant-)	
Appellant.)	

Appeal from the Third Judicial District, Canyon County, Idaho.

HONORABLE BRADLY S. FORD, Presiding

Molly Huskey, State Appellate Public Defender, 3647 Lake Harbor Lane,
Boise, Idaho 83703

Attorney for Appellant

Lawrence G. Wasden, Attorney General, Statehouse, Boise, Idaho 83720

Attorney for Respondent

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Felony

Date		Judge
9/30/2008	New Case Filed-Felony	Bradly S. Ford
	Criminal Complaint	Frank P. Kotyk
	Hearing Scheduled (Arraignment (In Custody) 09/30/2008 01:32 PM)	Frank P. Kotyk
	Hearing result for Arraignment (In Custody) held on 09/30/2008 01:32 PM: Arraignment / First Appearance	Frank P. Kotyk
	Hearing result for Arraignment (In Custody) held on 09/30/2008 01:32 PM: Constitutional Rights Warning	Frank P. Kotyk
	Hearing result for Arraignment (In Custody) held on 09/30/2008 01:32 PM: Order Appointing Public Defender	Frank P. Kotyk
	Hearing result for Arraignment (In Custody) held on 09/30/2008 01:32 PM: Commitment On Bond - \$25,000 Total with CR08-30778	Frank P. Kotyk
	Hearing result for Arraignment (In Custody) held on 09/30/2008 01:32 PM: Consolidation Of Files with CR08-30778	Frank P. Kotyk
	Hearing result for Arraignment (In Custody) held on 09/30/2008 01:32 PM: Upon Posting Bond - Report to Pre-Trial Release	Frank P. Kotyk
	Change Assigned Judge	Karen J. Vehlow
	Hearing Scheduled (Preliminary Hearing 10/14/2008 08:30 AM)	Karen J. Vehlow
10/2/2008	Bond Posted - Surety (Amount 25000.00)	Karen J. Vehlow
	Notice of Bond Posted \$25,000.00	Karen J. Vehlow
	Motion for Bond Reduction and Notice of Hearing	Karen J. Vehlow
	PD-Request For Discovery	Karen J. Vehlow
10/8/2008	Petition for Appointment of Special PA	Karen J. Vehlow
	Order of Appointment of Special PA - Ada Co	Karen J. Vehlow
10/14/2008	Hearing result for Preliminary Hearing held on 10/14/2008 08:30 AM: Continued Motion For Bond Reduction	Karen J. Vehlow
	Change Assigned Judge	Gregory F. Frates
	Hearing Scheduled (Preliminary Hearing 10/30/2008 08:30 AM)	Gregory F. Frates
10/30/2008	Hearing result for Preliminary Hearing held on 10/30/2008 08:30 AM: Bound Over (after Prelim)	Gregory F. Frates
	Hearing result for Preliminary Hearing held on 10/30/2008 08:30 AM: Order Binding Defendant Over to District Court	Gregory F. Frates
	Hearing result for Preliminary Hearing held on 10/30/2008 08:30 AM: Preliminary Hearing Held	Gregory F. Frates
	Hearing Scheduled (Arrn. - District Court 11/07/2008 01:30 PM)	Gordon W Petrie
11/3/2008	Request for Preliminary Hearing Transcript	Gordon W Petrie
11/4/2008	Order for production of preliminary hearing transcript	Gordon W Petrie
11/7/2008	Hearing result for Arrn. - District Court held on 11/07/2008 01:30 PM: Arraignment / First Appearance *PETRIE-PT-JAN 5@1:30-JT-FEB 19-20@9:30	Gordon W Petrie
	Hearing result for Arrn. - District Court held on 11/07/2008 01:30 PM: Order Setting PT/JT	Gordon W Petrie

000001

Date: 2/1/2010

Time: 02:17 PM

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Third Judicial District Court - Canyon County

ROA Report

User: HEIDEMAN

Case: CR-2008-0030874-C Current Judge: Bradley S Ford

Defendant: Betancourt, Aniceto C IV

State of Idaho vs. Aniceto C Betancourt IV

Felony

Date		Judge
11/7/2008	Hearing result for Arrn. - District Court held on 11/07/2008 01:30 PM: District Court Hearing Held Court Reporter: Yvonne Hyde-Gier Number of Transcript Pages for this hearing estimated: less than 100 pages Hearing Scheduled (Pre Trial 01/05/2009 01:30 PM) Hearing Scheduled (Jury Trial 02/19/2009 09:30 AM) STNW Hearing result for Arrn. - District Court held on 11/07/2008 01:30 PM: Information	Gordon W Petrie Gordon W Petrie Gordon W Petrie
11/10/2008	Motion for Automatic Disqualification	Gordon W Petrie
11/13/2008	Order for Disqualification/Morfitt	Gordon W Petrie
12/5/2008	Transcript Filed (Preliminary Hearing)	Gordon W Petrie
12/19/2008	Hearing Scheduled (Jury Trial 02/19/2009 09:31 AM) STNW	Gordon W Petrie
12/24/2008	Request For Discovery Discovery response to court	Gordon W Petrie Gordon W Petrie
1/5/2009	Hearing result for Pre Trial held on 01/05/2009 01:30 PM: District Court Hearing Held Court Reporter: Kathy Klemetson Number of Transcript Pages for this hearing estimated: less than 100 pages Hearing result for Pre Trial held on 01/05/2009 01:30 PM: Pre-trial Memorandum Hearing result for Jury Trial held on 02/19/2009 09:31 AM: Hearing Vacated Hearing Scheduled (Jury Trial 03/17/2009 09:00 AM)	Juneal C. Kerrick Juneal C. Kerrick Gordon W Petrie Renae J. Hoff
1/7/2009	Hearing Scheduled (Conference - Status 03/13/2009 09:00 AM) Notice Of Status Conference Hearing	Renae J. Hoff Gordon W Petrie
1/28/2009	Addendum to discovery response to court	Gordon W Petrie
1/30/2009	Second addendum to discovery response to court	Gordon W Petrie
3/4/2009	Third addendum to discovery response to court	Gordon W Petrie
3/6/2009	Fourth addendum to discovery response to court Third Addendum to Discovery	Gordon W Petrie Gordon W Petrie
3/9/2009	4th ADDENDUM to Discovery	Gordon W Petrie
3/12/2009	Motion in Limine and Notice of Hearing Motion to Reduce Time Required for Notice of Hearing	Gordon W Petrie Gordon W Petrie
3/13/2009	Hearing result for Conference - Status held on 03/13/2009 09:00 AM: Continued Mtn in Limine PCS Hearing result for Jury Trial held on 03/17/2009 09:00 AM: Hearing Vacated stnw Hearing Scheduled (Motion in Limine & Pre Trial 06/01/2009 01:30 PM)-reset time not available Hearing Scheduled (Jury Trial 07/07/2009 09:30 AM) STW-reset judge not available 7th and 8th	Renae J. Hoff Renae J. Hoff Gordon W Petrie Gordon W Petrie

000002

Felony

Date		Judge
3/13/2009	Notice of Hearing	Renae J. Hoff
	District Court Hearing Held	Renae J. Hoff
	Court Reporter: Carole Bull	
	Number of Transcript Pages for this hearing estimated: less than 100 pages	
4/2/2009	Hearing Scheduled (Motion Hearing 06/01/2009 09:30 AM) Motion in Limine and PT conf	Gordon W Petrie
4/3/2009	Change Assigned Judge (batch process)	
	Amended Notice of Hearing	Bradly S Ford
4/6/2009	Hearing Scheduled (Jury Trial 07/09/2009 09:30 AM)	Bradly S Ford
4/7/2009	Amended Notice Of Hearing	Bradly S Ford
	Amended Notice Of Hearing	Bradly S Ford
4/10/2009	5th Addendum to Discovery Response to Court	Bradly S Ford
	Motion to Amend Information	Bradly S Ford
	Notice Of Hearing (called atty/ wanted Notice sent back/ then will reset and send amended Notice for 9:30 am- spoke w/ Linda re: time) (Order received/in file)	Bradly S Ford
4/14/2009	Amended Notice Of Hearing	Bradly S Ford
6/1/2009	Hearing result for Motion Hearing held on 06/01/2009 09:30 AM: Motion Held Motion in Limine	Bradly S Ford
	Interim Hearing Held - PT conf	Bradly S Ford
	Pre-trial Memorandum	Bradly S Ford
	Amended Information Filed	Bradly S Ford
	District Court Hearing Held	Bradly S Ford
	Court Reporter: Yvonne Hyde Gier	
	Number of Transcript Pages for this hearing estimated: less than 100 pages	
	Hearing Scheduled (Motion Hearing 06/08/2009 02:00 PM) in Limine Special PA to appear via phone	Bradly S Ford
	Hearing Scheduled (Conference - Status 07/08/2009 01:00 PM)	Bradly S Ford
	Charge Added	Bradly S Ford
6/8/2009	Hearing result for Motion Hearing held on 06/08/2009 02:00 PM: Motion Denied in Limine	Bradly S Ford
	Special PA to appear via phone	
	District Court Hearing Held	Bradly S Ford
	Court Reporter: Yvonne Hyde Gier	
	Number of Transcript Pages for this hearing estimated: less than 100 pages	
6/30/2009	State's Proposed Jury Instructions	Bradly S Ford
7/8/2009	Hearing result for Conference - Status held on 07/08/2009 01:00 PM: Interim Hearing Held	Bradly S Ford
	District Court Hearing Held	Bradly S Ford
	Court Reporter: Yvonne Hyde Gier	
	Number of Transcript Pages for this hearing estimated: less than 100 pages	

000003

Felony

Date		Judge
7/9/2009	District Court Hearing Held Court Reporter: Denece Graham Number of Transcript Pages for this hearing estimated: more than 100 pages Failure To Appear For Hearing Or Trial	Dennis E. Goff Dennis E. Goff
	Warrant Issued - Bench Bond amount: 20000.00 combined w/CR08-30778 Failure to Appear Defendant: Betancourt, Aniceto C IV	Dennis E. Goff
	Case Status Changed: Inactive	Bradly S Ford
	Warrant Quashed Failure to Appear Defendant: Betancourt, Aniceto C IV	Dennis E. Goff
	Case Status Changed: Activate (previously inactive)	Dennis E. Goff
	Jury Trial Started - Day 1	Dennis E. Goff
7/10/2009	Jury Trial Started - Day 2	Dennis E. Goff
	Found Guilty After Trial	Dennis E. Goff
	Miscellaneous - Jury Instructions	Dennis E. Goff
	Miscellaneous - Verdict Form	Dennis E. Goff
	Pre-Sentence Investigation Evaluation Ordered	Dennis E. Goff
	Hearing Scheduled (Sentencing 08/31/2009 10:30 AM)	Bradly S Ford
	Estimated Costs on Appeal--\$1100.00---335 pages	Dennis E. Goff
	Miscellaneous - Jury Question	Dennis E. Goff
7/23/2009	Letters/Motions from Def Forwarded to PD	Bradly S Ford
8/31/2009	Hearing result for Sentencing held on 08/31/2009 10:30 AM: Continued	Bradly S Ford
	Order for Substance Abuse Assessment	Bradly S Ford
	District Court Hearing Held Court Reporter: Yvonne Hyde Gier Number of Transcript Pages for this hearing estimated: less than 100 pages	Bradly S Ford
	Hearing Scheduled (Sentencing 10/06/2009 03:30 PM) D/A Assmnt 19-2524	Bradly S Ford
10/6/2009	Hearing result for Sentencing held on 10/06/2009 03:30 PM: Hearing Held D/A Assmnt 19-2524	Bradly S Ford
	Final Judgement, Order Or Decree Entered	Bradly S Ford
	Sentenced To Fine And Incarceration	Bradly S Ford
	Probation Ordered	Bradly S Ford
	Notice to Defendant Upon Sentencing	Bradly S Ford
	District Court Hearing Held Court Reporter: Yvonne Hyde Gier Number of Transcript Pages for this hearing estimated: less than 100 pages	Bradly S Ford
	Case Status Changed: closed pending clerk action	Bradly S Ford
	Surety Bond Exonerated (Amount 25,000.00)	Bradly S Ford
	Judgment (2)	Bradly S Ford
10/20/2009	Corrected Judgment (2)	Bradly S Ford

000004

Date: 2/1/2010

Time: 02:17 PM

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Third Judicial District Court - Canyon County

ROA Report

User: HEIDEMAN

Case: CR-2008-0030874-C Current Judge: Bradley S Ford

Defendant: Betancourt, Aniceto C IV

State of Idaho vs. Aniceto C Betancourt IV

Felony

Date		Judge
10/20/2009	Judgment and Commitment and Order of Probation on Suspended Execution of Judgment	Bradly S Ford
11/13/2009	Supp judg comm ordr of prob on susp exec of jmt	Bradly S Ford
11/17/2009	Notice of Appeal (pro se)	Bradly S Ford
	Appealed To The Supreme Court	Bradly S Ford
	Motion to Vacate Conviction (pro se)	Bradly S Ford
	Motion to Withdraw Plea of Guilty to Concealed Weapons Charge and DUI or Driving While Intoxicated	Bradly S Ford
11/19/2009	Defendant's Medication Record from St Lukes brought in by Def	Bradly S Ford
	Notice Of Hearing	Bradly S Ford
	Hearing Scheduled (Motion Hearing 12/11/2009 01:30 PM) Withdraw vacate conviction/withdraw plea of GT	Bradly S Ford
11/25/2009	SC-Order Suspending Appeal	Bradly S Ford
	Notice of appeal PD	Bradly S Ford
12/3/2009	Motion to amend Judgment	Bradly S Ford
	Motion for appointment of state Appellate Public Defender	Bradly S Ford
	Motion to Furlough Defendant from Custody	Bradly S Ford
12/9/2009	Certificate Of Service by fax	Bradly S Ford
12/11/2009	Order Appointing STATE Public Defender (Appeal)	Bradly S Ford
	Hearing result for Motion Hearing held on 12/11/2009 01:30 PM: Motion Held Withdraw vacate conviction/withdraw plea of GT	Bradly S Ford
	Motion Denied - Mtn for JNOV on felony PCS (Judgment Not Withstanding the Verdict)	Bradly S Ford
	Motion Denied - Withdraw plea of GT (DUI, CCW)	Bradly S Ford
	Motion Denied - Furlough	Bradly S Ford
	Motion for School Release - to be taken up at review hearing on 12-17-09	Bradly S Ford
	District Court Hearing Held Court Reporter: Yvonne Hyde Gier Number of Transcript Pages for this hearing estimated: less than 100 pages	Bradly S Ford
	Hearing Scheduled (Motion Hearing 12/17/2009 08:30 AM) Release for School	Bradly S Ford
12/17/2009	Hearing result for Motion Hearing held on 12/17/2009 08:30 AM: Motion Held Release for School (defense attorney to submit detailed order, and Court will consider)	Bradly S Ford
	Disposition With Hearing	Bradly S Ford
	District Court Hearing Held Court Reporter: Yvonne Hyde Gier Number of Transcript Pages for this hearing estimated: less than 100 pages	Bradly S Ford
	Case Status Changed: closed pending clerk action	Bradly S Ford
12/21/2009	Defendant's Medical Records	Bradly S Ford

Document sealed

000005

Date: 2/1/2010

This Judicial District Court - Canyon County

User: HEIDEMAN

Time: 02:17 PM

ROA Report

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Case: CR-2008-0030874-C Current Judge: Bradly S Ford

Defendant: Betancourt, Aniceto C IV

State of Idaho vs. Aniceto C Betancourt IV

Felony

Date		Judge
12/29/2009	Motion for transport for SS Administration in Boise	Bradly S Ford
1/26/2010	Amended Notice of Appeal	Bradly S Ford

IN THE DISTRICT COURT OF THE 3rd JUDICIAL DISTRICT OF THE STATE OF IDAHO IN
AND FOR THE COUNTY OF Canyon.

THE STATE OF IDAHO,

Plaintiff

Betancourt, Aniceto 4th

Defendant

DOB

SSN

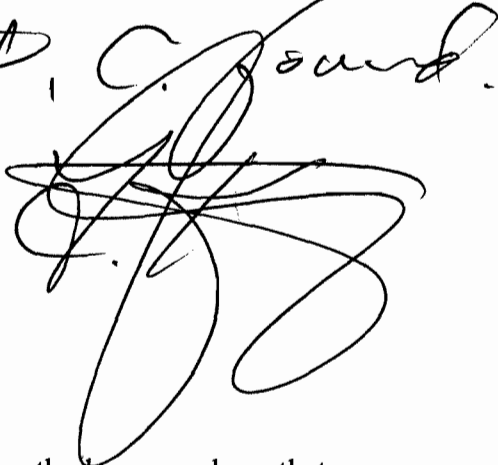
DL#

STATE Idaho

State of Idaho,

County of Canyon

COURT CASE NUMBER CR68-30874
PROBABLE CAUSE AFFIDAVIT IN SUPPORT
OF ARREST AND/OR REFUSAL TO TAKE TEST

9-30-08
P. C. found.


SS

I, Cpl. Janet Murakami, the undersigned, being first duly sworn on oath, depose and say that:

1. I am a peace officer employed by the IDAHO STATE POLICE.
2. The defendant was arrested on 09/29/2008 at 0826 ☒ A.M. ☐ P.M. for the crime of driving while under the influence of alcohol, drugs or any other intoxicating substances pursuant to Section 18-8004 Idaho Code. Second or more DUI offense in the last five years? ☐ YES ☒ NO ☐ FELONY ☒ MISDEMEANOR

3. Location of Occurrence: EB Interstate 84/Milepost 33

4. Identified the defendant as: (print name) Aniceto Betancourt, 4th by: (check box)

☐ Military ID ☐ State ID Card ☐ Student ID Card ☐ Drivers License ☐ Credit Cards

☐ Paperwork found ☒ Verbal ID by defendant

Witness _____ identified defendant.

Other _____

5. Actual physical control established by: ☒ Observation by affiant ☐ Observation by Officer _____
☐ Admission of Defendant to _____, ☐ Statement of Witness: _____
☐ Other: _____

ORIGINAL

6. I believe that there is probable cause to believe the defendant committed such crime because of the following facts:

(NOTE: You must state the source of all information provided below. State what you observed and what you learned from someone else, identifying that person): **000007**

On September 29, 2008, at approximately 0801 hours, I, Corporal Janet Murakami stopped a dark blue Plymouth Neon bearing Idaho plate number 2CDV670 eastbound on Interstate 84 near milepost 33 in Canyon County, State of Idaho for not displaying a front license plate. I contacted the driver, Aniceto Betancourt, 4th who subsequently identified himself verbally. Immediately I noticed Betancourt was extremely nervous. I could smell a strong odor of an alcoholic beverage emanating from inside the vehicle. Betancourt's eyes were bloodshot and glassy. Betancourt admitted to possessing loaded weapons in a black bag on the front passenger seat. I asked Betancourt to step out of the vehicle. I could still smell a strong odor of an alcoholic beverage emanating from Betancourt's breath as he spoke. Betancourt admitted to consuming several Budlight beers in the early morning. Later, four 12-ounce Keystone Light cans were found on the front passenger floorboard. The cans were cold to the touch. Betancourt refused to perform the Standardized Field Sobriety Evaluations. I arrested Betancourt for driving under the influence of alcohol and/or drugs. I found two semi-automatic 45 caliber handguns in the bag on the front passenger seat. Both weapons had loaded magazines inserted with one weapon chambering a round. I advised Betancourt I had a portable breath test device (Lifeloc). Betancourt stated he would be refusing all evidentiary tests at the scene of the traffic stop. I transported Betancourt to the Mercy Medical Center-North in Nampa where I read him the ALS advisory. Betancourt again refused to submit to the breath test and an involuntary blood draw was performed on Betancourt.

Idaho State Police Senior Trooper Brandon Bake conducted the inventory of Betancourt's vehicle. Tpr. Bake later advised me that he found a small plastic bag containing a white crystal substance under the mat on the front passenger floorboard. The substance was later field tested, which indicated a presumptive positive for methamphetamine. I transported Betancourt to the Canyon County Jail where he was turned over to the jail staff for booking on the charges of driving under the influence of alcohol and/or drugs, carrying a concealed weapon under the influence, and possession of a controlled substance.

DUI NOTES

Odor of alcoholic beverages	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Admitted drinking alcoholic beverages	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Slurred Speech	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Impaired memory	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Glassy/bloodshot eyes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Other _____		

Sobriety Tests – Meets Decision Points?

Gaze Nystagmus	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Walk & Turn	<input type="checkbox"/> Yes	<input type="checkbox"/> No
One Leg Stand	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Crash Involved	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Injury	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Drugs Suspected ☒ Yes ☐ No Drug Recognition Evaluation Performed? ☐ Yes ☒ No
Reason Drugs are Suspected Methamphetamine found in vehicle.

Prior to being offered the test, the defendant was substantially informed of the consequences of refusal and failure of the test as required by Section 18-8002 & 18-8002A, Idaho Code and the standards and methods adopted by the Department of Law Enforcement.

☒ Defendant was tested for alcohol concentration, drugs or other intoxicating substances. The test(s) was/were performed in compliance with Sections 18-8003 & 18-8004(4), Idaho Code and the standards and methods adopted by the Department of Law Enforcement.

BAC: _____ by: ☐ Breath Instrument Type: ☐ Intoxilyzer 5000 ☐ Alco Sensor Serial #: _____
☒ Blood AND/OR ☐ Urine Test Results Pending? ☒ Yes ☐ No (Attached)
Name of person administering breath test: _____ Date Certification Expires: _____

☒ Defendant refused the test as follows: Betancourt advised he would be refusing the portable breath test device at the scene of the traffic stop and at the medical center. 000008

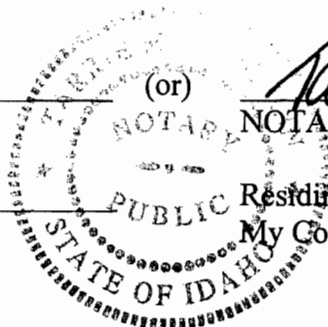
By my signature and in the presence of a person authorized to administer Oaths in the State of Idaho, I hereby solemnly swear that the information contained in this document and attached and documents that may be included herein is true and correct to the best of my information and belief.

Dated: 09/29/08 Signed: [Signature]
(affiant)

Subscribed and sworn to before me on 09/29/08
(Date)

PERSON AUTHORIZED TO
ADMINISTER OATHS.

Title: _____



(or)

[Signature]
NOTARY PUBLIC FOR IDAHO

Residing at: Ada Co.

My Commission expires: 06/14/12

ar

DAVID L. YOUNG
CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany
Caldwell, Idaho 83605

Telephone: (208) 454-7391

FILED
A.M. 12:50 P.M.
SEP 30 2008
CANYON COUNTY CLERK
J MEYERS, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
MAGISTRATE DIVISION

THE STATE OF IDAHO

Plaintiff,

vs.

ANICITO C. BETANCOURT, IV,

DOB: [REDACTED]

Defendant.

CASE NO. CR2008-

30874-C

CRIMINAL COMPLAINT
for the crimes of:

**POSSESSION OF A CONTROLLED
SUBSTANCE**

Fel., I.C. Section 37-2732(c)(1)

STATE OF IDAHO)

ss

County of Canyon)

PERSONALLY APPEARED Before me this 30 day of September, 2008,

Erica Young, of the Canyon County Prosecuting Attorney's Office, who

being duly sworn, complains and says:

COMPLAINT

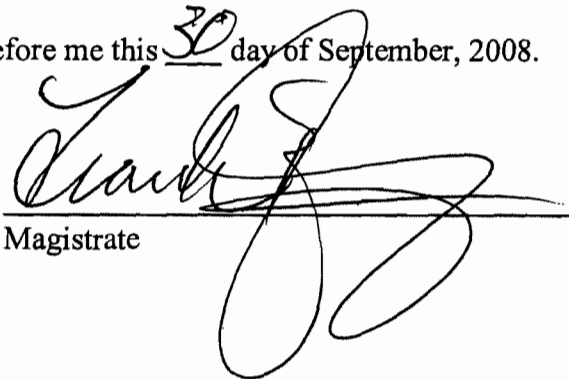
J:\COMPLAIN\2008\SEPT\Betancourt 30ic.wpd

That the Defendant, Aniceto C. Betacourt IV, on or about the 29th day of September, 2008, in the County of Canyon, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

All of which is contrary to Idaho Code, Section 37-2732(c)(1) and against the power, peace and dignity of the State of Idaho.


Complainant

SUBSCRIBED AND SWORN To before me this 30 day of September, 2008.


Magistrate

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON

☒ **ARRAIGNMENT** ☐ **CONT'D ARRAIGNMENT** ☐ **FIRST APPEARANCE** 08-30874-C

THE STATE OF IDAHO, Plaintiff,
-vs-
Aniceto C. Betancourt IV Defendant.

☐ True Name
Corrected Name: _____

Case No. CR- 08-30778-C

Date 9/30/08

Judge Kotyk

Recording Wig7(207213)

APPEARANCES:

☒ Defendant
☐ Defendant's Attorney _____

☒ Prosecutor Scott James
☐ Interpreter _____

☐ **FAILURE TO APPEAR:** Defendant failed to appear. It is Ordered
☐ bench warrant issued. ☐ bail on warrant \$ _____. ☐ bail forfeited. ☐ referred to P.A.

ADVISEMENT OF RIGHTS: Defendant

☒ was informed of the charges against him/her and all legal rights, including the right to be represented by counsel.

☒ requested court appointed counsel.

☐ waived right to counsel.

☒ Indigency hearing held.

☒ Court appointed public defender.

☐ Court denied court-appointed counsel.

☐ Arraignment continued to _____ before Judge _____.

☐ to consult / retain counsel. ☐ _____

☐ District Court Arraignment _____ before Judge _____.

☒ **PRELIMINARY HEARING:** Statutory time waived: ☐ Yes. ☒ No. ☐ Preliminary Hearing waived.
Preliminary Hearing set 10/14/08 at 8:30 before Judge K Venlow.

☐ **ENTRY OF GUILTY PLEA:** Defendant

☐ was advised of effect of guilty plea and possible consequences.

☐ entered plea freely and voluntarily with knowledge of consequences.

☐ Plea of guilty accepted by the court.

☐ Defendant ordered to obtain ☐ alcohol/drug

☐ Misdemeanor PSI ☐ domestic violence eval

☐ aggression evaluation prior to sentencing date.

☐ Sentencing continued to _____ before Judge: _____.

☐ **ENTRY OF NOT GUILTY PLEA:** Case to be set for ☐ court trial. ☐ pretrial and jury trial.

BAIL: State recommends _____

☐ Released on written citation promise to appear.

☐ Released on bond previously posted.

☐ Released on own recognizance (O.R.).

☒ Remanded to the custody of the sheriff.

☐ Released to pre-trial release officer.

☒ Bail set at \$ 25,000.00

☐ No Contact Order

☐ Entered

☐ Continued ☐ Address Verified

☒ Cases Consolidated

☐ Corrected Address: _____

OTHER: Defendant shall report to pre-trial release if bond is posted.

Chadson

Deputy Clerk

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 9/30/08 AT 1:30 P.M.
CLERK OF THE DISTRICT COURT
BY [Signature], Deputy

THE STATE OF IDAHO/or

Aniceto C Betancourt IV

Case No. CR-08-30874C
CR-08-30778-C

ORDER APPOINTING PUBLIC
DEFENDER

The Court being fully advised as to the application of the above-named applicant and it appearing to be a proper case,

IT IS HEREBY ORDERED that the Canyon County Public Defender be, and hereby is, appointed for

☒ THE MATTER IS SET FOR

Preliminary Hearing
10/14/08 at 8:30am

before Judge K Venturi

☐ THE MATTER SHALL BE SET FOR

before Judge _____

Dated: 9/30/08

Signed: [Signature]

Judge

☒ In Custody

- Bond \$ 25,000 Total

☐ Released:

☐ O.R.

☐ on bond previously posted
☐ to PreTrial Release

Juvenile:

☐ In Custody

☐ Released to _____

☐ No Contact Order entered.

☒ Cases consolidated.

☒ Discovery provided by State.

☐ Interpreter required.

☐ Additional charge of FTA.

Original--Court File

Yellow--Public Defender

Pink--Prosecuting Attorney

ORDER APPOINTING PUBLIC
DEFENDER

000013

2/06

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 9/30/08 AT 1:30 P.M.
CLERK OF THE DISTRICT COURT
BY [Signature], Deputy

THE STATE OF IDAHO, or

Plaintiff,

-vs-

Aniceto C Betancourt IV
Defendant.

Case No.

CR-08-30874-C
CR-08-30778-C

COMMITMENT ON BOND

IT IS HEREBY ORDERED that the above-named Defendant be committed to the custody of the Sheriff of Canyon County, Idaho:

- ☒ Bond having been set in the sum of \$ 25,000 Total
- ☐ Bond having been ☐ increased ☐ reduced to the sum of \$ _____
- ☒ Defendant shall report to the Pre-Trial Release Office if bond is posted.
- ☐ Defendant shall have no contact with victim whether or not bond is posted.
- ☒ Defendant shall not operate or be in the front seat of any motor vehicle if bond is posted
- ☒ Other: Defendant shall not possess firearms

or weapon

Dated:

9/30/08

Signed:

[Signature]
Judge

☒ Jail

☒ Dispatch ☒ P/T

ab

ALEXANDER B. BRIGGS
CANYON COUNTY PUBLIC DEFENDER
802 Arthur Street
P.O. Box 606
Caldwell, Idaho 83606
Telephone (208) 453-1300
FAX (208) 454-0136

Attorney for Defendant

FILED
A.M. 3:40 P.M.
OCT 02 2008

CANYON COUNTY CLERK
M RODRIGUEZ, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

* * * * *

STATE OF IDAHO,)	CASE NO. CR08-30874/30778
)	
Plaintiff,)	
)	
vs.	)	MOTION FOR BOND REDUCTION OR
	)	RELEASE ON OWN RECOGNIZANCE
ANICETO C. BETANCOURT, IV,	)	AND NOTICE OF HEARING
)	
Defendant.)	
_____)	

COMES NOW, the defendant, by and through his attorney, ALEXANDER B. BRIGGS, Assistant Canyon County Public Defender, and hereby moves this Honorable Court for entry of its Order releasing the defendant on defendant's own recognizance or reducing bail.

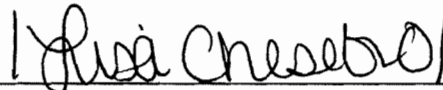
THIS MOTION is made on the grounds that the offense with which defendant is charged is a bailable offense; that the bail now set is excessive; and that bail is unnecessary in that the defendant can be safely released on defendant's own recognizance.

THIS MOTION is based on the pleadings, papers, records and files in the above entitled action.

NOTICE OF HEARING: NOTICE IS HEREBY GIVEN that attorney for Defendant will bring on for hearing the above Motion before the above entitled Court on the 14th day of October, 2008, at the hour of 8:30 o'clock, a.m., or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE: I HEREBY CERTIFY that a true and correct copy of the above and foregoing document was delivered to the office of the CANYON COUNTY PROSECUTING ATTORNEY, by leaving a copy of the same in his basket at the Canyon County Courthouse, Caldwell, Idaho, on this date.

Dated this 2 day of October, 2008.



ALEXANDER B. BRIGGS
Attorney for Defendant

lm

DAVID L. YOUNG
CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany
Caldwell, Idaho 83605
Telephone: (208) 454-7391

F I L D
A.M. P.M.

OCT 08 2008

CANYON COUNTY CLERK
T SANCHEZ, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO

Plaintiff,

vs.

Aniceto Betancourt,

Defendant.

CASE NO. CR2008-30874

PETITION FOR APPOINTMENT
OF SPECIAL PROSECUTOR

COMES NOW, DAVID L. YOUNG, Canyon County Prosecuting Attorney, and
hereby petitions this Court pursuant to **Idaho Code** Section 31-2603 for the appointment of a
Special Prosecutor in the case of the State of Idaho v. Aniceto Betancourt, and upon being duly
sworn, hereby deposes and says:

1. That your affiant is the duly elected Prosecuting Attorney of Canyon
County.

PETITION FOR APPOINTMENT
OF SPECIAL PROSECUTOR

H:\WORK\SPECIAL PROS\BetancourtA_Ada Pet.wpd

2. That your affiant has the duty to prosecute Aniceto Betancourt pursuant to **Idaho Code** Section 31-2604.

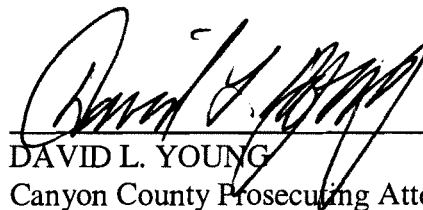
3. That Aniceto Betancourt, the defendant in this case, is currently pursuing legal action against your affiant and/or Canyon County.

4. That your affiant petitions this Court to appoint Greg Bower, Ada County Prosecuting Attorney, or any duly appointed and sworn Deputy Prosecuting Attorney acting in his behalf, members of the Idaho State Bar and experienced attorneys in criminal prosecution, as the Special Prosecutor, in that they are suitable persons to perform the duties required of your affiant in prosecuting Aniceto Betancourt.

5. That your affiant petitions this Court to appoint Greg Bower, Ada County Prosecuting Attorney or any duly appointed and sworn Deputy Prosecuting Attorney acting in his behalf, as Special Prosecutor throughout the duration of all further proceedings in this case.

6. That your affiant has contacted Greg Bower, and he has agreed to be appointed as Special Prosecutor in these proceedings.

DATED This 7 day of October, 2008.



DAVID L. YOUNG
Canyon County Prosecuting Attorney

STATE OF IDAHO)
 ss.
County of Canyon)

On this 7 day of October, 2008, before me, a Notary Public for Idaho, appeared
DAVID L. YOUNG, known to me to be the person whose name is subscribed to the within
instrument, and acknowledged to me that he executed the same.



Lanae Manser
Notary Public for Idaho
Residing at Ada County, ID
My Commission Expires: 11/16/10

FILED
A.M. 5:10 P.M.

OCT 08 2008

CANYON COUNTY CLERK
T SANCHEZ, DEPUTY

lm

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO

Plaintiff,

vs.

Aniceto Betancourt,


Defendant.

CASE NO. CR2008-30874

**ORDER OF APPOINTMENT OF
SPECIAL PROSECUTOR**

IT IS HEREBY ORDERED, AND THIS DOES ORDER, That Greg Bower, Ada County Prosecuting Attorney, or any duly appointed and sworn Deputy of the Prosecuting Attorney, acting in his behalf, is appointed as Special Prosecutor in the case of the State of Idaho v. Aniceto Betancourt, in that they are suitable persons to perform the duties required in prosecuting said case and that there is a conflict of interest in the Canyon County Prosecuting Attorney's continued prosecution of Aniceto Betancourt pursuant to **Idaho Code** Section 31-2604.

DATED this 8th day of October, 2008.


District Judge
Senior

ORDER OF APPOINTMENT OF
SPECIAL PROSECUTOR

H:\WORK\SPECIAL PROS\BetancourtA_Ada Ord.wpd

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
HEARING CONTINUED

The State of Idaho)
Plaintiff,)
-vs-)
Aniceto C. Betancourt IV)
Defendant.)

CR-08-30778-C
Case No. CR-08-30874-C
Date: 10/14/08
Judge: Karen Vehlouw
Tape: Magu (909-911)
Hearing: Preliminary Hrg.

APPEARANCES:

- ☐ The State of Idaho ☒ Deputy Prosecutor David Christensen for Josh Haws (ada co.)
☐ City Prosecutor _____
☐ Deputy Attorney General _____
☐ Plaintiff ☐ Plaintiff's Attorney _____
☒ Defendant ☒ Defendant's Attorney Heidi Koonce
☐ Interpreter _____

PROCEEDINGS: This matter shall be

- ☐ set for a date certain
☐ on the stipulation of counsel.
☐ at the request of _____
☒ continued to 10/20/08 @ 8:30 am ☒ before Judge Frates
☐ on the stipulation of counsel.
☒ at the request of the Defense
☐ passed to the miscellaneous calendar.
☐ No one appeared on behalf of either party.
☐ No proof of service was filed.

CUSTODY:

- ☐ Released on written citation promise to appear. ☒ Released on bond previously posted. cont.
☐ Released on own recognizance (O.R.) ☐ Remanded to the custody of the sheriff.
☐ Released to pre-trial release officer. ☐ Bail set at \$ _____

OTHER: The Defense requested a continuance to go over discovery. The State indicated there was no objection.

CLYDE R. BAKER, Deputy Clerk

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
PRELIMINARY HEARING

THE STATE OF IDAHO,

Plaintiff,

-vs-

Aniceto C. Batancourt IV
Defendant.

CR-08-30778
Case No. CR- 08-30874

Date 10/30/08

Judge Frates

Recording Magle (949-1021)

APPEARANCES:

☒ Defendant

☒ Prosecutor

☒ Defendant's Attorney

Dayo Onanubosi

☐ Interpreter

FAILURE TO APPEAR: Defendant failed to appear. It is Ordered

☐ bench warrant issued—bail \$

☐ bond forfeited.

☐ Other:

PROCEEDINGS:

☐ State moved to dismiss

☐ Court dismissed Complaint.

☐ Preliminary hearing waived; Defendant bound over to District Court.

☐ Plea offer stated for the record as follows:

☒ Preliminary Hearing held

☐ Prospective witnesses excluded.

STATE'S WITNESSES SWORN:

1. Janet Murakami 2. Brandon Bake

3.

4.

5.

DEFENDANT'S WITNESSES SWORN:

1.

2.

3.

4.

5.

☐ Defendant had no testimony or evidence to present.

EXHIBITS: ☐ As set forth on attached list.

COURT'S RULING:

☐ No probable cause; Complaint dismissed; Defendant discharged.

☒ Probable cause for offense set forth in Complaint.

☒ Defendant held to answer to the District Court. District Court arraignment set for November 7, 08 at 1:30 p.m. before Judge Petrie

☒ Misdemeanor case(s) continued consolidated with felony case for further proceedings.

☐ Motion for bond reduction continued until the time of District Court Arraignment.

BAIL: The Defendant was

☐ released on own recognizance (O.R.).

☐ remanded to custody of the sheriff.

☐ Bail set \$

☐ released to pre-trial release officer.

☒ released on bond previously posted.

OTHER:

Deputy Clerk

Case No. CR08-30874

000023

Third Judicial District Court, State of Idaho
In and For the County of Canyon
1115 Albany Street
Caldwell, Idaho 83605

Filed: 10/30/08 at 10:21 A. M

Clerk of the District Court

By M. Adamson, Deputy

STATE OF IDAHO
Plaintiff,
vs.

Case No: CR08-30874

ORDER BINDING DEFENDANT OVER TO
DISTRICT COURT

Aniceto Betancourt
Defendant,

Preliminary hearing having been ☐ waived ☒ held in this case on the 30 day of
October, 20 08 and the Court being fully satisfied that a public offense has been
committed and that there is probable or sufficient cause to believe the Defendant guilty thereof,

IT IS HEREBY ORDERED that the Defendant herein be held to answer in the District Court of the Third
Judicial District of The State of Idaho, in and for the County of Canyon, to the charge of Possession
of a controlled substance - IC. 37-2732(c)(1)

a felony, committed in Canyon County, Idaho on or about the 29 day of Sept,
20 08.

IT IS FURTHER ORDERED that the Defendant herein shall be arraigned before the District Court of
the Third Judicial District of the State of Idaho, in and for the County of Canyon, on the 7 day of
November, 20 08 at 1:30 P.m.

- ☒ Defendant is continued released on the bond posted.
- ☐ Defendant's personal recognizance release is ☐ continued ☐ ordered.
- ☐ Defendant's release to Pre-Trial Release Officer is ☐ continued ☐ ordered.
- ☐ YOU, THE SHERIFF OF CANYON COUNTY, IDAHO, are commanded to receive into your
custody and detain the Defendant until legally discharged. Defendant is to be admitted to bail in
the sum of \$ _____.

Dated: 10/30/08

Signed _____
Magistrate

ORDER BINDING DEFENDANT OVER TO DISTRICT COURT.
000024

05/2007

ALEXANDER B. BRIGGS
CANYON COUNTY PUBLIC DEFENDER
802 Arthur Street
P.O. Box 606
Caldwell, Idaho 83606
Telephone (208) 453-1300
FAX (208) 454-0136

NOV 04 2008

CANYON COUNTY CLERK
B HAYNE, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

ORDER FOR PRODUCTION OF
PRELIMINARY HEARING
TRANSCRIPT

000025

CERTIFICATE OF SERVICE

I hereby certify that I served true and correct copies of the foregoing document upon the following:

Canyon County Prosecuting Attorney
Canyon County Courthouse
Caldwell, ID 83605

Canyon County Public Defender
802 Arthur Street
Caldwell, ID 83605

Theresa Randall
Transcript Clerk
Canyon County Courthouse
Caldwell, ID 83605

by placing a copy of the same in their respective baskets on the Second Floor Clerk's Office at the Canyon County Courthouse, Caldwell, Idaho.

Dated this 4 day of ^{November}~~October~~, 2008.

WILLIAM H. HURST, CLERK

By: 
Deputy Clerk

ORDER FOR PRODUCTION OF
PRELIMINARY HEARING TRANSCRIPT - 2

000026

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

PRESIDING: **GORDON W. PETRIE** DATE: November 7, 2008

THE STATE OF IDAHO,	)	COURT MINUTES
)	
Plaintiff,	)	CASE NO: CR2008-30874*C
	)	CR2008-30778*C
vs.)	
	)	TIME: 1:30 P.M.
ANICETO BETANCOURT, IV,)	
	)	REPORTED BY: Yvonne Hyde-Gier
Defendant.)	
_____	)	DCRT 5 (215 - 222)

This having been the time heretofore set for **arraignment** in the above entitled matter, the State was represented by Mr. Joshua Haws, Special Canyon County Prosecuting Attorney, Deputy Prosecuting Attorney for Canyon County; and the defendant was present in court with counsel, Ms. Heidi Koonce.

Mr. Haws provided the Court with the Information to be filed, provided a copy to Ms. Koonce and requested the same be amended by interlineation to reflect the defendant's correct spelling of his name.

Ms. Koonce had no objection.

In response to the Court's inquiry, the defendant informed the Court that his true name as amended on the Information was charged.

The Court amended the Information and noted that it was deemed filed.

The Court advised the defendant he had the right to remain silent throughout the proceeding, as anything he said could be used against him in the future. In answer to the Courts inquiry, the defendant indicated he understood his rights.

The Court advised the defendant that an Information had been filed in **CR2008-30874*C**, that charged him with the felony offense of **Possession of a Controlled Substance**, which carried a maximum possible penalty of seven (7) years imprisonment and/or a fine in the amount of \$15,000.00; in **CR2008-30778*C**, that charged him by citation with the misdemeanor offense in **Count I: Driving Under the Influence**, which carried a maximum possible penalty of six (6) months in County Jail, a \$1,000.00 fine or both, six (6) months driver's license suspension, thirty (30) days absolute, sixty (60) days with restricted privileges; **Count II: Carrying a Concealed Weapon Under the Influence of Alcohol or Drugs**, which carried a maximum possible penalty of six (6) months in County Jail and a \$1,000.00 fine or both.

In answer to the Courts inquiry, the defendant indicated he understood the possible penalties provided by law upon a conviction.

The Court determined that the defendant had previously heard his appeal rights, understood them and did not want them repeated.

Ms. Koonce indicated the defendant waived formal reading of the Information; would enter a plea of **not guilty** at this time, and demanded speedy trial.

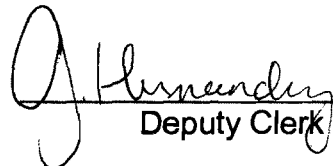
The Court set this matter for **pretrial on the January 5, 2009 at 1:30 p.m. before this Court, and jury trial to commence February 19, 2009 at 9:30 a.m. before this Court.**

Ms. Koonce informed the Court that she had spoken to the State and they said they would submit to the Court's discretion, the defendant had contacted the Department of Transportation and was advised that there was no current suspension in place, a term of his bond was that he could not drive at all, requested that he have permission to drive to and from BSU and pick up his daughter at daycare.

Mr. Haws advised the Court that it would leave it up to the Court's discretion.

The Court so granted the amendment for the limited purpose to allow the defendant to go to and from school and picking up his daughter and delivering his daughter.

The defendant was continued released on the bond previously posted with the instruction to keep in contact with his attorney.


Deputy Clerk

FILED
A.M. 2:22 P.M.

NOV 07 2008

CANYON COUNTY CLERK
G HERNANDEZ, DEPUTY

dt

GREG H. BOWER
SPECIAL CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany
Caldwell, Idaho 83605
Telephone: (208) 454-7391

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO

Plaintiff,

vs.

ANICE TO BETANCOURT, IV,
DOB [REDACTED]

Defendant.

)
) CASE NO. CR2008-30874
)
) **INFORMATION**
) for the crime of:
)
) **POSSESSION OF A**
) **CONTROLLED SUBSTANCE**
) Fel. I.C. Section 37-2732(c)(1)
)
)

David L. Young, Prosecuting Attorney in and for the County of Canyon, State of
Idaho, who in the name and by the authority of said state prosecutes in its behalf, in proper
person comes into the above entitled Court and informs said Court that the above named
Defendant stands accused by this Information of the crime of

POSSESSION OF A CONTROLLED SUBSTANCE
Felony
Idaho Code Section 37-2732

committed as follows:

INFORMATION

1

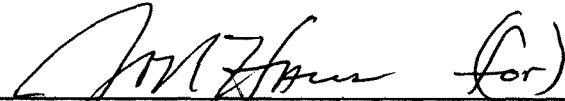
J:\INFORMATION\2008\NOV\betancourt inf.wpd

000030

That the Defendant, Aniceto C. Betancourt IV, on or about the 29th day of September, 2008, in the County of Canyon, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

All of which is contrary to Idaho Code, Section 37-2732(c)(1) and against the power, peace and dignity of the State of Idaho.

DATED This 7th day of November, 2008.



GREG H. BOWER
Special Prosecuting Attorney for
Canyon County, Idaho

NOV 17 2008

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
CANYON COUNTY CLERK
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
G. HERNANDEZ, DEPUTY

STATE OF IDAHO, Plaintiff,	CASE NO. CR-20 <u>08-30874</u> <u>08-30778</u>
vs. <u>Aniceto C. Betancourt, IV</u> Defendant.	ORDER SETTING PRETRIAL CONFERENCE AND JURY TRIAL

The defendant having been arraigned and having entered a plea of NOT GUILTY to each charge now pending herein, the court now sets the dates and times for a pretrial conference and jury trial.

THIS ORDERS THAT:

1. A pretrial conference will be held on January 5, 2009 at 1:30 P M. before Judge Gordon W. Petrie
2. A 1 1/2 two-day jury trial will commence on February 19-20, 2009 at 9:30 a M. before Judge Gordon W. Petrie.

Notice is hereby given, pursuant to Idaho Rules of Criminal Procedure 25 that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. Gregory M. Culet
Hon. Juneal C. Kerrick
Hon. Renae Hoff
Hon. James C. Morfitt
Hon. Stephen W. Drescher
Hon. Gordon W. Petrie

Hon. Dennis E. Goff
Hon. W. H. Woodland
Hon. Phillip M. Becker
Hon. Daniel B. Meehl
Hon. Ron Schilling

DATE: 7 NOV, 2008

Gordon W. Petrie
GORDON W. PETRIE, District Judge

CERTIFICATE OF SERVICE

The undersigned certifies s/he served a copy of the above ORDER SETTING PRETRIAL CONFERENCE AND JURY TRIAL on the deputy prosecutor and defendant's attorney when s/he caused the same to be handed to each in open court.

By G. Hernandez, Deputy Clerk of the Court

ORDER SETTING PRETRIAL CONFERENCE AND JURY TRIAL

NOV 10 2008

CANYON COUNTY CLERK
M BUSH, DEPUTY

ab
ALEXANDER B. BRIGGS
CANYON COUNTY PUBLIC DEFENDER
802 Arthur Street
P.O. Box 606
Caldwell, Idaho 83606
Telephone (208) 453-1300
FAX (208) 454-0136

Attorney for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

* * * * *

THE STATE OF IDAHO,	)	CASE NO. CR08-30874
)	
Plaintiff,)	
)	
-vs-	)	MOTION FOR AUTOMATIC
	)	DISQUALIFICATION
ANICETO C. BETANCOURT, IV,)	
)	
Defendant.)	
)	

COMES NOW, The above named defendant, by and through his attorney of record, ALEXANDER B. BRIGGS, Assistant Canyon County Public Defender, pursuant to Rule 25(a) of the Idaho Criminal Rules and disqualifies the Honorable James C. Morfitt from presiding in the above entitled action.

THIS MOTION is made and based upon Rule 25(a) of the Idaho Criminal Rules which states that such disqualification is automatic.

CERTIFICATE OF SERVICE: I HEREBY CERTIFY that a true and correct copy of the above and foregoing document was delivered to the office of the CANYON COUNTY PROSECUTING ATTORNEY, by leaving a copy of the same in his basket at the Canyon County Courthouse, Caldwell, Idaho, on this date.

Dated this 10 day of November, 2008.

A handwritten signature in black ink, appearing to read 'A B Briggs', is written over a horizontal line.

ALEXANDER B. BRIGGS
Attorney for Defendant
Residing at Caldwell, Idaho

NOV 13 2008

CANYON COUNTY CLERK
B RAYNE, DEPUTY

ab
ALEXANDER B. BRIGGS
CANYON COUNTY PUBLIC DEFENDER
802 Arthur Street
P.O. Box 606
Caldwell, Idaho 83606
Telephone (208) 453-1300
FAX (208) 454-0136

Attorney for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

* * * * *

THE STATE OF IDAHO,	)	CASE NO. CR08-30874
)	
Plaintiff,)	
)	
-vs-	)	ORDER OF DISQUALIFICATION
)	
ANICETO C. BETANCOURT, IV,)	
)	
Defendant.)	

The defendant having filed a Motion for Automatic Disqualification pursuant to
Rule 25(a) of the Idaho Criminal Rules and such disqualification being automatic;

IT IS HEREBY ORDERED, AND THIS DOES ORDER, that the Honorable
James C. Morfitt is disqualified from presiding in the above entitled action.

Dated this 13 day of November, 2008.


Judge

CERTIFICATE OF SERVICE

I hereby certify that I served true and correct copies of the foregoing document
upon the following:

Canyon County Prosecuting Attorney
Canyon County Courthouse
Caldwell, ID 83605

Canyon County Public Defender
802 Arthur Street
Caldwell, ID 83605

Dan Kessler
Trial Court Administrator
Canyon County Courthouse
Caldwell, ID 83605

by placing a copy of the same in their respective baskets on the Second Floor Clerk's Office at
the Canyon County Courthouse, Caldwell, Idaho.

Dated this 13 day of November, 2008.

WILLIAM H. HURST, CLERK

By: _____

BRaym
Deputy Clerk

JAN 05 2009

CANYON COUNTY CLERK
S. BRIGGS, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,

Plaintiff,

Case No.

PRETRIAL MEMORANDUM

-vs-

Aminto C. Petercount IV
Defendant.

Appearances:

Prosecuting Attorney

Attorney for Defendant

- ☒ Counsel revealed to each other ☐ prior to pretrial ☐ at pretrial the evidence to be offered at trial.
- ☐ Intoximeter (or other breath test) reading _____
- ☐ Video _____
- ☐ Physical evidence: ☐ on police report ☐ other _____
- ☐ Tape recording _____
- ☐ Oral statements: ☐ on police report ☐ other _____
- ☐ Plaintiffs' witnesses and addresses: _____

disclosed Lab report

Audio Photos

Video

☒ Defendants' witnesses and addresses:

Defendant

Refuse to respond to

written discovery on or before

Jan. 12, 2009.

☒ Counsel shall reveal to each other and the Court, in writing, any additional witnesses or exhibits to the above list of the preceding evidence by March 10, 2009 at 9:00 a.m. See per to Trial.

☐ Plea negotiations:

☐ Both counsel certify that the case is ready for trial on the date set.

☒ Proposed jury instructions shall be submitted to the Court and opposing counsel not less than five days prior to trial.

☐ Jury trial reset for _____, 20____ at _____ a.m.

☐ Jury trial waived and case reset for court trial on _____, 20____ at _____ a.m.

☒ Pretrial motions shall be filed and heard
☐ within _____ days of this Order. Includes Motion in Person
☒ no less than 10 days prior to trial.
☐ no later than _____, 20____

☐ Pretrial motions, timely filed, are set for hearing on _____, 20____ at _____ a.m.

☒ Copies of Pretrial Memorandum given to both counsel. To be determined

☒ Parties to reappear for a status conference on 5/1, 20____ at _____ a.m. The Defendant must be personally present.

☒ Other: Jury Trial re-set
March 17-18, 2009
9:00 am
Judge Hoff

[Signature]
Deputy Prosecuting Attorney

[Signature]
Defense Attorney

Dated: 1/5/09

Signed: [Signature]

Magistrate Judge

PRETRIAL MEMORANDUM

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8/04

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FILED
A.M. P.M.

MAR 11 2009

CANYON COUNTY CLERK
J TUCKER, DEPUTY

kj
ALEXANDER B. BRIGGS
CANYON COUNTY PUBLIC DEFENDER
802 Arthur Street
P.O. Box 606
Caldwell, Idaho 83606
Telephone (208) 453-1300
FAX (208) 454-0136

Attorney for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,

Plaintiff,

vs.

ANICETO BETANCOURT, IV,

Defendant.

CASE NO. CR08-30874
CR08-30778

MOTION IN LIMINE AND
NOTICE OF HEARING

COMES NOW the defendant, ANICETO BETANCOURT, IV, by and through his attorney, ALEXANDER B. BRIGGS, Assistant Canyon County Public Defender, and moves this Court for an Order In Limine to exclude certain evidence to wit: results of the Defendant's blood alcohol content and results of the Defendant's blood analysis showing the Defendant had methamphetamine in blood.. This motion is brought pursuant to Rules 401 and 403 of the Idaho Rules of Evidence. This motion is brought on the grounds and for the following reasons:

1. Evidence that the Defendant's blood-alcohol level was .09 per 100 cc of blood is inadmissible. The state has chosen to charge the Defendant with DUI under the impairment theory, not as a "per-se" DUI. The Idaho courts have held that blood or breath alcohol results in an impairment theory DUI case are inadmissible without an extrapolation. State v. Robinett, 141 Idaho 110, 106 P.3d 436 (2005). Copy of case attached.


2. The evidence that the Defendant had methamphetamine in his blood is inadmissible because it is not relevant. There was no Drug Recognition Exam conducted in this case. The lab analysis in this case demonstrates a non-quantifiable amount of methamphetamine in the defendant's blood. The State will present no evidence that the Defendant was under the influence of methamphetamine, therefore, the fact that the Defendant had methamphetamine in his blood is of no relevance.

3. Even if the Court finds the evidence relevant, it's probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, and would tend to mislead the jury.

NOTICE OF HEARING: PLEASE TAKE NOTICE that the attorney for defendant will bring on for hearing the above Motion on the 13th day of March, 2009, at the hour of 9:00 o'clock, a.m., before the Honorable Renae Hoff, at the Canyon County Courthouse, 1115 Albany, Caldwell, Idaho.

CERTIFICATE OF SERVICE: This certifies that a true and correct copy of the MOTION IN LIMINE AND NOTICE OF HEARING was mailed to Special Prosecutor, Brad Knell, Ada County Prosecuting Attorney, Ada County Courthouse, Room 3191, 200 West Front Street, Boise, Idaho, 83702, properly enclosed in an envelope, with postage prepaid, on this date.

DATED this 11 day March, 2009.



ALEXANDER B. BRIGGS
Attorney for Defendant
Residing at Caldwell, Idaho

141 Idaho 110
STATE v. ROBINETT

141 Idaho 110 (2005)
STATE v. ROBINETT

STATE of Idaho, Plaintiff-Respondent,
v.
Richard ROBINETT, Defendant-Appellant.

No. 30842.

Supreme Court of Idaho, Boise, October 2004 Term.

January 28, 2005

Appeal from the District Court, Nez Perce County, Jeff M. Brudie, J.

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Law Offices of Todd S. Richardson, PLLC, Lewiston, for appellant. Todd S. Richardson argued.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent. Kenneth K. Jorgensen argued.

TROUT, Justice.

This is an appeal from a jury verdict convicting Richard Robinett (Robinett) of aggravated driving under the influence (DUI) and vehicular manslaughter.

I. FACTUAL AND PROCEDURAL BACKGROUND

On May 11, 2001, Robinett, his daughter Patricia Robinett (Patricia), and his brother-in-law Russell Lawrence (Lawrence), were drinking at a bar in Lewiston. At 2:25 a.m., they left in Robinett's car with Robinett driving, Patricia in the front passenger seat and Lawrence in the back seat. At a curve in the road, the car went off the road and collided with several trees. Police were notified at approximately 3:00 a.m. and at the scene they found Robinett outside the vehicle. Patricia was trapped inside the car and Lawrence was found dead, lying across the front passenger seat. Robinett's blood was drawn for a blood alcohol content (BAC) test approximately two hours after the accident and a second blood test was drawn about one-half hour later. The result of the first test was between .135 and .165 and the result of the second test was .12.

The State charged Robinett with aggravated DUI and vehicular manslaughter and elected to prosecute the DUI solely on the basis that Robinett was driving impaired and not as a per se violation of the statute based on the BAC results. Robinett's defense was that he was not intoxicated at the time of the accident and that, even if intoxicated, his driving was not the cause of the accident. Robinett presented evidence that Lawrence became angry with Robinett, reached forward from the back seat and grabbed Robinett, causing him to lose control of the vehicle.

At trial, the district judge denied Robinett's motion in limine to exclude evidence of the two BAC test results but granted Robinett's motion to exclude evidence regarding the per se alcohol concentration standard of .08. Robinett was convicted of both charges and he appealed. The appeal was assigned to the Court of Appeals which remanded the case for a new trial. The State petitioned for review and this Court granted the petition.

II. STANDARD OF REVIEW

When considering a case on review from the Court of Appeals, this Court gives serious consideration to the views of the

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Court of Appeals; however, this Court reviews the trial court's decisions directly and acts as though it is hearing the matter on direct appeal from the decision of the trial court. *State v. Statton*, 136 Idaho 135, 136, 30 P.3d 290, 291 (2001); *Leavitt v. Swain*, 133 Idaho 624, 627, 991 P.2d 349, 352 (1999). The trial court has broad discretion in the admission and exclusion of evidence and its decision to admit evidence will be reversed only when there has been a clear abuse of that discretion. *State v. Howard*, 135 Idaho 727, 731, 24 P.3d 44, 48 (2001). On the question of whether evidence is relevant, this Court reviews the trial court's ruling de novo. *State v. Raudebaugh*, 124 Idaho 758, 764, 864 P.2d 596, 602 (1993).

III. ANALYSIS

A. Admission of BAC test results

The offense of driving under the influence is codified in I.C. § 18-8004(1)(a) which provides:

It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or any combination of alcohol, drugs and/or any other intoxicating substances, or who has an alcohol concentration of 0.08, as defined in subsection (4) of this section, or more, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

This section has been interpreted as establishing one crime with two ways of proving a violation. *State v. Garrett*, 119 Idaho 878, 881-82, 811 P.2d 488, 491-92 (1991)(citing *State v. Knoll*, 110 Idaho 678, 718 P.2d 589 (Ct.App.1986)). As the Court of Appeals has indicated, the first way to prove a violation is to show under the totality of the evidence that the defendant was driving under the influence. The second way to prove a violation is to establish the defendant drove with an alcohol concentration of 0.08 percent or more. The State may elect to proceed against the defendant under either or both theories of proof. Evidence that is relevant under one theory of proof is not necessarily relevant under the other. *State v. Edmondson*, 125 Idaho 132, 133, 867 P.2d 1006, 1007 (Ct.App.1994); *State v. Andrus*, 118 Idaho 711, 713, 800 P.2d 107, 109 (Ct. App.1990); *State v. Knoll*, 110 Idaho 678, 682, 718 P.2d 589, 593 (Ct.App. 1986).

Robinett argues the numerical BAC test results should not have been admitted because the State elected to prosecute solely under a driving under the influence theory. This Court has never decided whether a numerical BAC test result can be admitted where a defendant's BAC level is actually tested but the defendant is prosecuted solely under an impairment theory. The Court of Appeals has stated the impairment method of proof considers the totality of the evidence, meaning "circumstantial evidence of impaired driving ability or other observable symptoms of intoxication." *State v. Barker*, 123 Idaho 162, 163, 845 P.2d 580, 581 (Ct.App.1992)(quoting *State v. Knoll*, 110 Idaho 678, 682, 718 P.2d 589, 593 (Ct.App. 1986)). We hold today that a numerical BAC test result is relevant to a prosecution for driving under the influence (as opposed to a per se violation) only if a proper foundation is laid to assure the validity of the test result, including evidence extrapolating the result back to the time of the alleged offense.

This case is distinguishable from *State v. Sutliff*, 97 Idaho 523, 547 P.2d 1128 (1976), where we held BAC test results need not be related back to the time of the offense as a foundational prerequisite to admissibility. In *Sutliff*, the defendant was charged with driving under the influence after he was involved in an accident which killed another person. Breath and blood samples were taken from the defendant fifty to sixty minutes after the accident. The defendant was prosecuted under a statute that provided certain presumptions depending on the percentage of alcohol in the body. We held "the statute does not require extrapolation back but establishes that the percentage of blood alcohol as shown by chemical analysis relates back to the time of the alleged offense for purposes of applying the statutory presumption." *Sutliff*, 97 Idaho at 525, 547 P.2d at 1130. Although the statute in *Sutliff* was worded differently than the statute under which Robinett was prosecuted,

it is clear the prosecutor in *Sutliff* was in effect prosecuting the case in a manner analogous to the current per se method of proof. Where the prosecution elects to use the per se method, the question is what the alcohol level was at the time

the sample was taken. "The lapse of time prior to the extraction of samples goes to the weight to be afforded the test results and not to their admissibility." *Sutliff*, 97 Idaho at 524, 547 P.2d at 1129. For that reason, it is appropriate to admit results drawn an hour or more after the alleged offense without having to actually extrapolate the evidence back to the time of the alleged offense.

Unlike proceeding on a per se theory, admission of a numerical BAC test result for purposes of demonstrating impairment must be extrapolated back to the time of the alleged offense to be relevant. The whole purpose of admitting the BAC test results is to show there was alcohol in the defendant's blood and that the level of alcohol in his system would have impaired his ability to drive in some identifiable way. This requires there be evidence connecting the test result to the time of the alleged offense and evidence showing how the numerical result relates to the issue of impairment. In other words, numerical test results can be admitted in a driving under the influence prosecution if there is a connection shown between the numerical test result and driving impairment at the time the motor vehicle was operated. Therefore, the numerical results of Robinett's BAC tests are not relevant to a prosecution for driving under the influence because the results were not accompanied by any evidence that correlated the results to the time of the accident and how it would have impacted Robinett's ability to drive.

Having concluded the numerical BAC test results were erroneously admitted, it must be determined if the error was harmless. "The test for harmless error . . . is whether a reviewing court can find beyond a reasonable doubt that the jury would have reached the same result without the admission of the challenged evidence." *State v. Moore*, 131 Idaho 814, 821, 965 P.2d 174, 181 (1998) (quoting *Giles v. State*, 125 Idaho 921, 925, 877 P.2d 365, 369 (1994)). After reviewing the record, this Court cannot say the jury would have reached the same result without the numerical BAC test results and, therefore, the error in admitting the results without further foundation was not harmless.

B. Jury instructions on superseding cause

Robinett raises a number of other issues on appeal, most of which need not be addressed since this matter is being remanded for a new trial. "Where an appellate court reverses or vacates a judgment upon an issue properly raised, and remands for further proceedings, it may give guidance for other issues on remand." *Smith v. Idaho Com'n on Redistricting*, 136 Idaho 542, 545, 38 P.3d 121, 124 (2001) (citation omitted). Robinett asserts the district judge erred in refusing several of his requested jury instructions including one concerning superseding cause. He argues these instructions were necessary to allow the jury to properly consider his evidence that Lawrence caused the accident by attacking Robinett while Robinett was driving. Based on the record, we conclude the jury was properly instructed and this is not a case involving a superseding cause. Robinett sought to show that he committed no act that could have had a causal relationship to the car accident and that the sole cause of the accident was Lawrence's attack. Robinett's theory required the jury to choose one of two alternative causes; not to assess whether a second action occurred subsequent to the first which intervened or superseded to actually result in the accident. The jury was appropriately called upon to decide which of the two causes it believed actually caused the accident. Therefore, the district court did not err by refusing Robinett's proposed jury instructions on superseding cause.

IV. CONCLUSION

The numerical result of Robinett's BAC tests should not have been admitted without evidence connecting the test results to the time of the alleged offense and evidence showing how the test results related to the issue of impairment. Because this error was

not harmless, we reverse and remand for a new trial.

Chief Justice SCHROEDER and Justices KIDWELL and EISMANN concur.

Justice BURDICK Specially Concurring.

I concur with the majority opinion and write only to address defendant's assertion of prosecutorial misconduct. I believe that the issue was correctly addressed by Judge Lansing in *State v. Robinett*, Docket No. 28564, 2004 WL 32949:

Robinett contends that there was misconduct in several components of the prosecutor's closing argument. We find it necessary to address only one of these for guidance on remand.

While discussing the proof required to establish Robinett's guilt of aggravated DUI, the prosecutor said: "What they do, because this is essentially a DUI statute, is they make it strict liability. If you are intoxicated and you're driving, [and] an injury occurs, then you are guilty of this." This comment misstated to the jury the causation element of aggravated DUI. The offense is defined in I.C. § 18-8006 as follows:

Any person causing great bodily harm, permanent disability or permanent disfigurement to any person other than himself in committing a violation of the provisions of section 18-8004(1)(a) or (1)(c), Idaho Code, is guilty of a felony.
...

(Emphasis added.) Although this statute does not require that the State prove any negligent act while driving under the influence, it does require that there be "some causal connection between the defendant's driving while under the influence and the victim's injuries." *State v. Johnson*, 126 Idaho 892, 895, 894 P.2d 125, 128 (1995).^(fn1) See also *State v. Frank*, 51 Idaho 21, 28, 1 P.2d 181, 184 (1931) (holding that, under an analogous statute establishing the offense of involuntary manslaughter, the State was required to prove not only that the defendant was driving under the influence but also that his unlawful driving was the proximate cause of the victim's death).

The prosecutor's argument here was improper because it suggested to the jury that the State need not prove any causal relationship between Robinett's driving under the influence and the accident that caused Patricia's injuries. Indeed, it indicated that even if the wreck occurred in the manner asserted by Robinett, solely as a result of Lawrence suddenly grabbing Robinett from behind, Robinett would be criminally liable. This assertion in the prosecutor's argument that a defendant is "strictly liable" for any injury that occurs while he is driving under the influence eliminated the causation element and misled the jury regarding the State's burden of proof.

Footnotes:

FN1. In holding that I.C. § 18-8006 does not require a negligent act, *Johnson* overruled, *sub silentio*, the court of Appeals decision in *State v. Nelson*, 119 Idaho 444, 446-47, 807 P.2d 1282, 1284-85 (Ct.App., 1991), where we held that the statute required proof that the driver, while intoxicated, committed a negligent act or omission.

ID

Idaho

F I L E D
A.M. P.M.

MAR 11 2009

**CANYON COUNTY CLERK
J TUCKER, DEPUTY**

kj
**ALEXANDER B. BRIGGS
CANYON COUNTY PUBLIC DEFENDER
802 Arthur Street
P.O. Box 606
Caldwell, Idaho 83606
Telephone (208) 453-1300
FAX (208) 454-0136**

Attorney for Defendant

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

* * * * *

STATE OF IDAHO,)	CASE NO. CR08-30874
	)	CR08-30778
Plaintiff,)	
	)	MOTION TO REDUCE TIME
vs.	)	REQUIRED FOR NOTICE OF
	)	HEARING
ANICETO BETANCOURT IV,)	
)	
Defendant.)	
_____)	

COMES NOW, The above named defendant, ANICETO BETANCOURT IV, by and through his attorney of record, ALEXANDER B. BRIGGS, Assistant Canyon County Public Defender, and moves the Court for an Order allowing defendant's Motion for in Limine to be heard on the 13th day of March, 2009, at the hour of 9:00 o'clock, a.m., on the ground and for the reason that there is not sufficient time to give the usual notice of hearing of said motion, and if defendant is not heard at the time requested, he may suffer irreparable damage, as the object

**MOTION TO REDUCE TIME REQUIRED
FOR NOTICE OF HEARING - 1**

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of said Motion is to determine what evidence will be admitted at trial and the Court does not have a motion day available for the hearing of this Motion prior to that time.

CERTIFICATE OF SERVICE: This certifies that a true and correct copy of the above and foregoing instrument was mailed to the Special Prosecutor, Brad Knell, Ada County Prosecuting Attorney, Ada County Courthouse, Room 3191, 200 West Front Street, Boise, Idaho, 83702, properly enclosed in an envelope, with postage prepaid, on this date.

Dated this // day of March, 2009.



ALEXANDER B. BRIGGS
Attorneys for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

PRESIDING: **RENAE J. HOFF** DATE: March 13, 2009

THE STATE OF IDAHO,	)	COURT MINUTE
)	
Plaintiff,	)	CASE NO: CR2008-30778*C
	)	CR2008-30874*C
vs.	)	TIME: 9:00 A.M.
)	
ANICETO BENTANCOURT, IV,	)	REPORTED BY: Carole Bull
)	
Defendant.	)	DCRT3 (9:41-9:54)
_____)	

This having been the time heretofore set for **status conference** in the above entitled matter, the State was represented by Mr. Brad Knell, Special Prosecuting Attorney for Canyon County, and the defendant was personally present in court with counsel, Mr. Alex Briggs.

The Court noted the motion in limine filed by the defendant and in answer to the Court's inquiry, Mr., Knell indicated he received that document from Mr. Briggs through e-mail yesterday.

Mr. Briggs advised the Court that both sides were in agreement to reset the jury trial, part of that was that he was still going to argue the motion in limine, it could be set over, but ultimately they would ask the Court to exclude this evidence. If the Court ruled it was relevant and admissible, he would stipulate to the foundational requirements and what the

results of the lab test were so the State would not need to bring the lab witness in, although continuing his objection that they would be relevant and they would reserve the right to appeal.

Mr. Knell clarified for the record that the defendant would stipulate to the results of the test as well as the foundational elements of the test and that could be addressed through a jury instruction. Mr. Knell advised the Court that he had another issue to address. There was some confusion from his office about how the Information was done here in Canyon County. He had an Amended Information that he would like to file today to incorporate all three (3) charges, the felony with the two (2) misdemeanors on the same Information and asked if that was appropriate to file.

Mr. Briggs advised the Court that the main issue was with the DUI charge, because that would effect the motion in limine and one of the issues he raised in that motion.

The Court understood the defendant's issue in the motion was with the BAC.

Mr. Briggs advised the Court that his issue was with both the DUI and the drugs, the way the DUI was charged on the Citation was an impairment DUI with no indication that it was being charged as a "per-say" DUI, therefore, the Robinett case says the blood alcohol was not relevant unless they could lay an extrapolatory foundation.

The Court noted it may be easier to go with the charging documents as they were.

Mr. Knell indicated that was the issue. It wasn't charged as above a .08 because obviously the officers didn't have any blood results, they got the blood back and that was why the Information included charging in the alternative.

The Court noted the State was making an amendment to the Information to charge both under the influence and over .08. and Mr. Knell concurred. The Court advised counsel if that was the case the Court couldn't permit the filing unless counsel stipulated and he would have to move to amend.

Mr. Knell so moved and requested to file the Amended Information.

Mr. Briggs submitted on that.

The Court's noted if this matter was going to be reset it should go back to the original Judge that it was originally assigned to or his successor and all of these issues would be better heard by the Judge who ended up with the case. The Court also noted there was a speedy trial issue.

Mr. Briggs advised the Court that the defendant was prepared to waive speedy trial.

The Court indicated it would set the trial over on Judge Petrie's calendar, but if there was no Judge appointed by that date this Court would hear it.

The Court instructed the State to prepare a motion to amend pursuant to the rules.

The Court vacated the current trial setting and reset this matter for **jury trial on July 7th through 10th, 2009 at 9:30 a.m. to be heard by Judge Petrie's successor.** The Court further set a **pretrial conference on June 1, 2009 at 1:30 p.m. also to be heard by Judge Petrie's successor.**

The Court anticipated the motion in limine could be heard at the pretrial conference and instructed the clerk to note that motion the notice of hearing and the State could notice their motion up for that date as well.

In answer to the Court's inquiry, the defendant indicated he was willing to waive **speedy trial** and the Court so noted.

The defendant was continued released on the bond previously posted.

S. Nyaund
Deputy Clerk

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County

APR 10 2009

CANYON COUNTY CLERK
J TUCKER, DEPUTY

Brad Knell
Special Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2008-30874
)	
vs.	)	MOTION TO AMEND
	)	INFORMATION
ANICETO BETANCOURT,)	
)	
Defendant.)	
_____)	

COMES NOW, Brad Knell, Special Deputy Prosecuting Attorney, in and for the County of Canyon, State of Idaho, and moves this Court to amend the Information previously filed in the above-entitled matter as follows:

1. To include the charges filed in case CR-2008-30778, currently consolidated with this case, to read: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732; II. OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS AND/OR WITH AN ALCOHOL CONCENTRATION OF .08 OR ABOVE, MISD., I.C. §18-8004; and III. CARRYING A DANGEROUS WEAPON WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS, MISD., I.C. §18-3302(B).

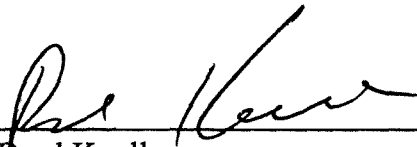
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2. To amend COUNT II to include "in the alternative did drive the aforementioned vehicle at the above-described location with an alcohol concentration of .08 or more, to-wit: .09 as shown by an analysis of his blood." The State received the toxicology report showing the Defendant's blood alcohol concentration at the time of incident much later. This amendment simply conforms the Information to reflect the evidence.

RESPECTFULLY SUBMITTED this 8 day of April, 2009.

GREG H. BOWER

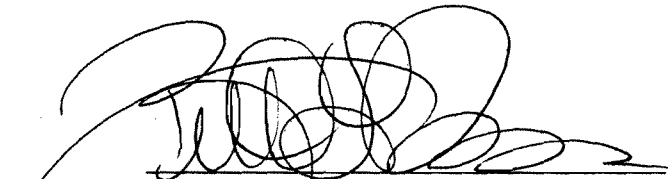
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County



Brad Knell
Special Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8 day of April, 2009, I served a true and correct copy of the foregoing to the Canyon County Public Defender's Office, 1115 E. Albany Street, Caldwell ID 83605, by depositing same in the U.S. Mail, postage prepaid.



Legal Assistant

000052

FILED

JUN 01 2009

**CANYON COUNTY CLERK
S FENNELL, DEPUTY**

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County

Brad Knell
Special Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,

Plaintiff,

vs.

ANICETO BETANCOURT,

Defendant,

Case No. CR-2008-30874

**ORDER TO AMEND
INFORMATION**

THE MOTION of Amend Information having come before this Court, and good cause appearing therefore;

IT IS HEREBY ORDERED, that the Information in the above-entitled case be amended.

SO ORDERED this 1 day of June, 2009.

Judge

JUN 01 2009

CANYON COUNTY CLERK
S FENNELL, DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County
200 W. Front Street, Room 3191
Boise Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2008-30874
)	
vs.	)	AMENDED
	)	INFORMATION
ANICETO BETANCOURT IV,)	
	)	Defendant's DOB [REDACTED]
Defendant.	)	Defendant's SSN: [REDACTED]
)	

GREG H. BOWER, Prosecuting Attorney, in and for the County of Canyon, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Canyon, and states that ANICETO BETANCOURT IV, is accused by this Amended Information of the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732; II. OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS AND/OR WITH AN ALCOHOL CONCENTRATION OF .08 OR ABOVE, MISD., I.C. §18-8004; and III. CARRYING A DANGEROUS WEAPON WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS, MISD., I.C. §18-3302(B) which crime(s) was/were committed as follows:

COUNT I

That the Defendant, ANICETO BETANCOURT IV, on or about the 29th day of September, 2008, in the County of Canyon, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.


COUNT II

That the Defendant, ANICETO BETANCOURT IV, on or about the 29th day of September, 2008, in the County of Canyon, State of Idaho, did drive a motor vehicle, to-wit: a 2000 Plymouth Neon, on or at Interstate 84 near Milepost 33, while under the influence of alcohol and/or drugs or in the alternative did drive the aforementioned vehicle at the above-described location with an alcohol concentration of .08 or more, to-wit: .09 as shown by an analysis of his blood.

COUNT III

That the Defendant, ANICETO BETANCOURT IV, on or about the 29th day of September, 2008, in the County of Canyon, State of Idaho, did carry a concealed weapon, to-wit: a .45 Glock semi-automatic firearm and .45 Highpoint semi-automatic pistol, on or about his person when intoxicated or under the influence of an intoxicating drink or drug.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.


GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County

JUN 01 2009

CANYON COUNTY CLERK
S FENNELL, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,

Plaintiff,

-vs-

Aniceto C. Botancourt, IV.
Defendant.

Case No. CR08-30778C, CR08-30874C

PRETRIAL MEMORANDUM

Reporter: Yvonne Hyde Gier
DCR 5 (958-1007)

Appearances:

Prosecuting Attorney Brad Knell

Attorney for Defendant Lance Twisting

- ☒ Counsel revealed to each other ☐ prior to pretrial ☒ at pretrial the evidence to be offered at trial. *Stipulated*
- ☐ Intoximeter (or other breath test) reading Three Lab Reports - Blood-test
- ☒ Video
- ☒ Physical evidence: ☒ on police report ☒ other Lab results at least 3 reports
- ☒ Tape recording ISP
- ☒ Oral statements: ☒ on police report ☒ other Audio/- Video - D.V.D's disclosed
- ☒ Plaintiffs' witnesses and addresses:

Trooper Brandon Blake

Trooper Janet Murakami

Dr. Gary Dawson

Susan Williamson

*A° has stipulated to lab work and chain of custody issues.

- ☒ Defendants' witnesses and addresses:

A, States Wits, Anyone in Police Rpt.

Ezek Yniguez

William Howard

Ulisses Castillo

- Supplemental Info to Follow

☒ Counsel shall reveal to each other and the Court, in writing, any additional witnesses or exhibits to the above list of the preceding evidence by June 11th, 2009 at 500 p.m.

☒ Plea negotiations:

Plead to Count I (Poss) & II (DVI) -
recommmend probation.

☒ Both counsel certify that the case is ready for trial on the date set.

☒ Proposed jury instructions shall be submitted to the Court and opposing counsel not less than five days prior to trial.

☐ Jury trial reset for _____, 20____ at _____ a.m.

☐ Jury trial waived and case reset for court trial on _____, 20____ at _____ a.m.

☐ Pretrial motions shall be filed.

☐ within _____ days of this Order.

☐ no less than _____ days prior to trial.

☐ no later than _____, 20____.

☐ Pretrial motions, timely filed, are set for hearing on _____, 20____ at _____ m.

☒ Copies of Pretrial Memorandum given to both counsel.

☒ Parties to reappear for a status conference on July 8th, 2009, 20____ at 1:00 p.m. The Defendant must be personally present.

☐ Other: _____

Mr. Kurl
Deputy Prosecuting Attorney

Dated: 6/1/09

[Signature]
Defense Attorney

Signed: [Signature]

Magistrate Judge

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
MOTION HEARING

THE STATE OF IDAHO,

Plaintiff,

-vs-

Aniceto Botancourt, IV
Defendant.

CR08-30874C
Case No. CR08-30778C
Date 06/01/09
Judge Bradly A. Ford
Tape DCR15 (935-951) (958-100)
Reporter: Yvonne Hyde Gier

APPEARANCES:

☒ Defendant ☒ Prosecutor Brad Knell
☒ Defendant's Attorney Dane Fuisting ☐ Interpreter _____
Time set for hearing on the ☐ State's ☒ Defendant's Motion for in limine (Defendant's)
State's Motion to Amend Information

STATE'S WITNESSES: 1. _____ 2. _____

3. _____ 4. _____

DEFENDANT'S WITNESSES: 1. _____ 2. _____

3. _____ 4. _____

Motion
in Limine

☒ The State presented argument ☐ In support of ☒ opposing the motion.
☒ Defense counsel / Defendant presented argument ☒ In support of ☐ opposing the motion.
☐ The motion was withdrawn by ☐ State ☐ defense counsel / Defendant.

THE COURT

☐ granted ☐ denied ☐ dismissed the motion. ☐ took the motion under advisement.

OTHER: The Court granted State's motion to Amend the Information.
Amended Information filed. The defendant waived formal reading
of the Amended Information, and advisement of penalties.

The Court continued this matter until 06/08/09 @ 2:00pm
to render decision on Motion in limine.

McNeele, Deputy Clerk

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
MOTION HEARING

THE STATE OF IDAHO,

Plaintiff,

-vs-

Aniceto Botancourt IV
Defendant.

CR08-30874C
Case No. CR08-30778C

Date 06/08/09

Judge Bradly J Ford

Tape DCR 5 (202-214)

Reporter: Yvonne Hyde Gier

APPEARANCES:

☒ Defendant

☒ Prosecutor

Brad Knell (via phone)

☒ Defendant's Attorney

Thomas Sullivan

☐ Interpreter

Time set for hearing on the

☐ State's

☒ Defendant's

Motion for

in limine

STATE'S WITNESSES: 1. _____

2. _____

3. _____

4. _____

DEFENDANT'S WITNESSES: 1. _____

2. _____

3. _____

4. _____

☐ The State presented argument ☐ in support of ☐ opposing the motion.

☐ Defense counsel / Defendant presented argument ☐ in support of ☐ opposing the motion.

☐ The motion was withdrawn by ☐ State ☐ defense counsel / Defendant.

THE COURT

☐ granted

☒ denied

☐ dismissed

the motion.

☐ took the motion under advisement.

OTHER: Status Conference and Jury trial to remain as set.
The Court noted it may prepare findings of fact and
conclusions of law in writing if necessary.

McNeele

Deputy Clerk

GREG H. BOWER
 Ada County Prosecuting Attorney
 Special Prosecutor for Canyon County

FILED P.M.
JUN 30 2009

CANYON COUNTY CLERK
 C ATKINSON, DEPUTY

Brad Knell
 Deputy Prosecuting Attorney
 200 W. Front Street, Room 3191
 Boise, Idaho 83702
 Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,

Plaintiff,

vs.

ANICETO BETANCOURT,

Defendant.

Case No. CR08-30874

**STATE'S PROPOSED
 JURY INSTRUCTIONS**

COMES NOW, Brad Knell, Deputy Prosecuting Attorney, in and for the
 County of Canyon, State of Idaho, and hereby submits the State's proposed jury
 instructions (attached).

DATED this 30th day of June, 2009.

GREG H. BOWER
 Ada County Prosecuting Attorney
 Special Prosecutor for Canyon County


 Brad Knell
 Deputy Prosecuting Attorney

INSTRUCTION NO. _____

In order for the defendant to be guilty of Possession of a Controlled Substance, the state must prove each of the following:

1. On or about the 29th day of September, 2008;
2. in the state of Idaho;
3. the defendant, Aniceto Betancourt, possessed any amount of methamphetamine, and;
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Grimm

INSTRUCTION NO. _____

Under Idaho law, methamphetamine is a controlled substance.

Given by

000062

INSTRUCTION NO. _____

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it. More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

Given Da

000063

INSTRUCTION NO. _____

In order for the defendant to be guilty of Driving Under the Influence, the State must prove each of the following:

1. On or about the 29th day of September, 2008;
2. in the state of Idaho;
3. the defendant, Aniceto Betancourt, drove or was in actual physical control of;
4. a motor vehicle;
5. upon a highway, street or bridge or upon public or private property open to the public;
6. while under the influence of a combination of alcohol and/or drugs,

or, in the alternative,

6. while having an alcohol concentration of 0.08 or more as shown by an analysis of the defendant's blood.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

N/A *[signature]*

INSTRUCTION NO. _____

The phrase "actual physical control," means being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.

N/A

000065

INSTRUCTION NO. _____

The term "alcohol" includes any liquid or solid material which contains ethanol, also known as ethyl alcohol.

N/A 

000066

INSTRUCTION NO. _____

In order for the defendant to be guilty of Carrying Concealed Weapons Under the Influence of Alcohol or Drugs, the state must prove each of the following:

1. On or about the 29th day of September, 2008;
2. in the state of Idaho;
3. the defendant, Aniceto Betancourt, carried concealed weapons, on or about his person;
4. when intoxicated or under the influence of an intoxicating drink or drug.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.



000067

INSTRUCTION NO. _____

The possession of a license to carry a concealed
weapon is not a defense to the charge of Carrying Concealed
Weapons Under the Influence of Alcohol or Drugs.

N/A *gr*

000068

INSTRUCTION NO. _____

You are instructed that an Idaho State Forensic Scientist analyzed the blood sample which was drawn from the defendant shortly after his arrest. The Forensic Scientist concluded that the sample contained methamphetamine.

You are to accept this as fact and not question or consider the procedures used by the Forensic Scientist or his/her qualifications to conduct such an analysis.

*Given by
If Def. stipulated?
Hoff 3/13/09 Minute 000069*

INSTRUCTION NO. _____

You are instructed that an Idaho State Forensic Scientist analyzed the blood sample which was drawn from the defendant shortly after his arrest. The Forensic Scientist concluded that the alcohol concentration of the sample was 0.09.

You are to accept this as fact and not question or consider the procedures used by the Forensic Scientist or his/her qualifications to conduct such an analysis.

N/A ga

000070

INSTRUCTION NO. _____

You are instructed that an Idaho State Forensic Scientist analyzed the white substance found in the ziplock bag which was found in the vehicle the defendant was driving. The Forensic Scientist concluded that the substance in the bag contained methamphetamine.

You are to accept this as fact and not question or consider the procedures used by the Forensic Scientist or his/her qualifications to conduct such an analysis.

*Given by
Is by stipulated?
Hwy 3/13/09 minute*

000071

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
PRETRIAL CONFERENCE
Status

THE STATE OF IDAHO,)
Plaintiff,)
-vs-)
Aniceto C. Betancourt, IV)
Defendant.)

Case No. CR-08-30874C, CR08-30778C
Date: 07/08/09
Judge: Bradly A. Ford
Tape: DOR 5 (132-144)(253-258)
Reporter: Yvonne Hyde Gilz

APPEARANCES:

☒ Defendant ☒ Defendant's Attorney Lance Twisting
☐ Interpreter ☒ Prosecutor Brad Knell (Special PA)

FAILURE TO APPEAR: Defendant failed to appear. It is Ordered

- ☐ bench warrant issued--bail \$ _____
☐ bond forfeited.
☐ jury trial vacated.

PROCEEDINGS:

- ☐ Pretrial waived.
☐ Pretrial reset to _____ Judge _____
☐ Pretrial held on the record.
☐ Each of counsel disclosed their prospective witnesses.
☐ The State provided discovery to the defense.
☐ The Court directed the State to provide defense with ☐ discovery. ☐ a copy of the police report.
☐ This case consolidated with _____ set for hearing on _____
_____ before Judge _____
☐ Plea offer ☐ stated on the record. ☐ refused. ☐ withdrawn.
☐ Status conference _____ before Judge _____
☒ Trial date of 07/09/09 @ 9:00 am before Judge Jeff noted.

CUSTODY:

- ☐ Released on written citation promise to appear. ☒ Released on bond previously posted.
☐ Released on own recognizance (O.R.). ☐ Remanded to the custody of the sheriff.
☐ Released to pre-trial release officer. ☐ Bail set at \$ _____

OTHER: The Court placed its oral decision denying the motion(s) in limine. The Court advised the parties it would accept part of the proposed Rule 11 plea agreement, but would not be bound to grant a withheld judgment.
Mennessier, Deputy Clerk
The parties indicated they were prepared to proceed to trial.
PRETRIAL CONFERENCE
Status

000072

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

PRESIDING: **DENNIS E. GOFF** DATE: **July 9, 2009**

THE STATE OF IDAHO,	)	COURT MINUTE
)	
Plaintiff,	)	CASE NO: CR2008-30874*C
)	
vs.	)	TIME: 9:30 A.M.
)	
ANICETO C. BETANCOURT, IV,	)	REPORTED BY: Denece Graham
)	
Defendant.	)	DCRT 4 (934 – 937/944 – 501)
)	
)	

This having been the time heretofore set for **trial to a jury** in the above entitled matter, the State was represented by counsel, Mr. Brad Knell, Special Deputy Prosecuting Attorney for Canyon County and the defendant appeared in court with counsel, Mr. Lance Fuisting.

The Court noted that the attorney had been advised to be present at 8:30 a.m. to take matters up prior to the jury trial, further, the clerk had reviewed the recording of Judge Ford's hearing and he had advised the attorneys to be present at 8:30 a.m. and jury trial to commence at 9:30 a.m. and the defendant was not present.

Mr. Fusiting concurred.

The Court noted that if the defendant was arrested then it could take this matter up on Monday and if he appeared late then it would quash the bench warrant if there was good cause, the Court issued a bench warrant in the amount of \$20,000.00.

The Court recessed at 9:37 a.m.

The Court reconvened at 9:44 a.m.

The Court noted that the defendant was present and reviewed prior proceedings.

The Court examined the defendant.

The Court continued **jury trial to July 13, 2009 at 8:30 a.m.** and advised the defendant and counsel that they must be present at 8:30 a.m.

The Court noted that it had met with each of counsel and reviewed the Rule 11, further the State had indicated today that if he plead guilty to the felony offense, the misdemeanors would be dismissed and Mr. Fuisting informed the Court that the defendant would plead guilty to the misdemeanor offenses and proceed to trial on the felony matter and proceed with the motions.

The Court quashed the bench warrant.

The defendant was continued released on bond previously posted with the instruction to keep in touch with his attorney and be present on Monday at 8:30 a.m.

The Court recessed at 9:50 a.m.

The Court reconvened at 10:54 a.m.

In response to the Court's inquiry, the defendant advised the Court that he intended to proceed with the jury trial.

In response to the Court's inquiry, each of counsel were ready to proceed.

The Court noted that it would bring the jury in to the Courtroom.

Mr. Fuisting informed the Court that he had some matters to take up prior to the jury

being brought in and advised the Court that the defendant would be enter guilty plea's to the misdemeanor **Driving Under the Influence** and **Carrying a Concealed Weapon while Under the Influence** and would leave the Possession of a Controlled Substance on for trial.

The Court advised the defendant that if at any time he did not understand what the Court was saying he needed to advise the Court so that it could stop at that time.

The Court advised the defendant that upon guilty plea and if the Court accepted the plea it was highly unlikely that he would be allowed to withdraw his plea.

The Court reviewed the notification of penalties for subsequent violation of Driving Under the Influence, the maximum possible penalties and provided the form to the defendant for his signature.

The Court advised the defendant that the maximum possible penalty for Carrying a Concealed Weapon While Under the Influence carried six (6) months in County Jail and a \$1,000.00 fine and reimbursement to the County for the costs of Court Appointed Attorney.

The defendant advised the Court that he understood the maximum possible penalties for the misdemeanor offenses.

The Court advised the defendant that by entering a plea of guilty, he would be waiving his right to a jury trial, the right to confront and cross-examine the State's witnesses, the right to use the subpoena power of the Court for the attendance of witnesses, the right to the presumption of innocence and the right against self incrimination.

The Court examined the defendant and determined there had been no threats, force, coercion or intimidation to cause him to waive his rights.

The Court examined the defendant regarding his age, education, read, wrote and understood the English language.

In response to the Court's inquiry, the defendant advised the Court that he was a United States Citizen and there were no recommendations or plea agreements.

The Court examined the defendant and determined he was not on probation or parole, and that he was not currently under the influence of any alcohol/drugs or mental condition that prevented him from understanding these proceedings.

The Court examined the defendant and determined he has had sufficient time to discuss his pleas of guilty and that he understood his rights, defenses and possible consequences.

The Court examined Mr. Fuisting and determined discovery had been received and that he was satisfied there was a factual basis for pleas of guilty, understood his waiver of rights, consequences of his pleas of guilty and the nature of the offenses and waiver of defenses.

The Court examined the defendant and determined what made him guilty of the offense of Driving Under the Influence.

In response to the Court's inquiry, Mr. Fuisting informed the Court that the defendant was admitting to being under the Influence of Alcohol.

In response to the Court's inquiry, Mr. Knell informed the Court that it did not matter

for purposes of the plea that he plead under alcohol and inquired if he could discuss with the jury that he had plead to Count's I and II in his case in chief.

Mr. Fuisting stated that he could not bring that up.

The Court advised Mr. Knell that it would be in violation of I.C. Rule of Evidence 404b – Other instances and brought it out because the defendant was not making an admission to the drug.

Mr. Knell advised the Court that they would not proceed on the Driving Under the Influence of Drugs.

The Court continued examination of the defendant regarding the **Driving Under the Influence** charge and admitted to alcohol of .09. and **Count II: Carrying a Concealed Weapon while Under the Influence** and the defendant was in agreement that a .09 blood alcohol content would for purposes of Carrying a Concealed Weapon be a factual basis for being under the influence.

The defendant concurred.

In response to the Court's inquiry, Mr. Knell informed the Court that he did not wish to put any additional statements in regards to factual basis to under the influence.

The Court examined the defendant regarding the Amended Information and in answer to the Court's inquiry, regarding **Count II: Driving Under the Influence**, the defendant entered a plea of guilty and **Count III: Carrying a Concealed Weapon While Under the Influence of Intoxicating Drink**, the defendant entered a plea of guilty.

The Court noted that based upon the questions, answers as well as his demeanor

as observed in this Courtroom, the Court found and concluded, that the defendant understood the nature of the offenses, consequences of his pleas of guilty, there was a factual basis for his guilty pleas, therefore, the Court concluded the pleas of guilty were being made freely, voluntarily, knowingly and intentionally and accepted the defendant's pleas of guilty.

The Court noted that it would set a sentencing date upon the completion of the trial on the other charge.

Mr. Fuisting advised the Court of his motion in limine of matters now irrelevant, guns and ammunition, bullet proof vest, unopened cans of beer, the State to bring in expert witness to testify regarding the effects of being under the influence of methamphetamines, redacted video of the investigation of the Driving Under the Influence charge, defendant's statement regarding hearing gun shots, result of methamphetamines in defendant's blood as a result of the Driving Under the Influence investigation, presented argument in support of the motions and requested the Court admonish the State to instruct its witnesses of the items not involved not be presented.

Mr. Knell presented argument in opposition to the exclusion of the blood alcohol content, the video, beers cans, would instruct the expert not to testify as to effects of methamphetamines but the jury should be able to see how the defendants acts.

Mr. Fuisting presented further argument in support of the motion and requested that the blood alcohol content be excluded.

Mr. Knell presented further argument in opposition of the motion.

The Court stated that it would not be ruling and under I.C. 12, matter that could be taken up before trial were not taken up timely and resolved before trial then they are waived, further, had been advised by Judge Ford of its ruling since no rulings in the file and it was advised that of his ruling: That the State to bring an expert had to lay sufficient enough foundation and trial Judge would have to rule on evidence. Therefore, any motions in limine filed in violation of I.C. 12 the Court would not consider, but would consider evidentiary matters prior to jury trial so counsel would now how to conduct themselves during trial.

The Court noted defense argued no notification of 404b matters, the Court determined that not to be true and denied since charge set forth was Driving Under the Influence while driving or actual physical control of a motor vehicle of While Under the Influence of Alcohol and or Drugs as well Carrying a Concealed Weapon of Alcohol and or Drugs, therefore, there was no violation under I.C 404b and other matters that require the State of notification of other uncharged acts, they were not uncharged acts. The Court further noted that 404b evidence says that evidence of other crimes, wrongs or acts was not admissible to prove the character of a person, but could be admissible for other purposes such as proof of motive, intent, plan, knowledge, and absence of mistake or accident and read the statements of the law for the defendant's benefits.

The Court noted that the objection to the evidence would be relevancy in which counsel cited in 401 and if met then it would be admissible unless the Court has to do something else, if not made 402 said it was not admissible. The Court advised the

defendant that what counsel was asking to Court to do decide what was relevant and not relevant in advance which it could do to a degree but could not do it defiantly, since in defending this action it could be opened. The Court stated that it would instruct the State to instruct their witnesses and not make any reference themselves in opening remarks that the defendant had plead guilty to Driving Under the Influence of Alcohol and Possession of Concealed Weapon while Under the Influence of Alcohol, but would know that he was charged and investigated for that because that was relevant into their contact with him and the facts and circumstances surrounding the alleged possession of a controlled substance and the same goes with the bullet proof vest which was relevant in way they had contact with him and the explanation if that could be redacted from the video and still have the facts and circumstances of their contact with him then the Court would agree with counsel and it would be relevant and the State should not make any references to the bullet proof vest, ammunition and gun, other then through context already stated through investigation of him. Regarding the unopened cans of beer in the car, it was the Court's ruling that they seemed to be relevant. The Court ruled that portions of the video were relevant that it showed the circumstances and context as well as the defendant's knowledge and intent to control the methamphetamines. The Court advised the defendant that his creditability was not at issue until he testified anything else he brought up in opening remarks by his attorney or cross examination by his attorney may make certain things relevant, and didn't feel any reason at this point to mention anything about "the defendant heard gunshots", because the only thing argued to it was the defendant's creditability which was not at issue.

The Court noted what was at issue was whether the State could meet the prima facie by presenting evidence on each of the elements of the offense. The Court noted that portions of the video that only went to the defendant's credibility are not relevant, until the defendant took the stand, circumstances of how the defendant was acting and statements that he was making were relevant to his knowledge and intent to possess the drugs later found in the passenger side of the motor vehicle. The video portions of where the State says that the defendant said he was asleep in the passenger side even though he was found in the driving side, it showed that he had access based on his own statements. The Court further stated that the State should not make any reference in their opening remarks to the .09 level of alcohol content.

In response to Mr. Knell's inquiry, the Court advised Mr. Knell that the video could be showed in its entirety because it showed the context and demeanor of the defendant.

Mr. Fuisting presented objection to anything that wasn't redacted that had been specifically ruled on and requested the Court view the video.

The Court stated that it would view the video and further that the only things the State could not comment on were the things that took place after the filing of the case, the plea's of guilty of today, guns and ammunition.

Mr. Knell informed the Court that the video had some redactions on it.

The Court viewed the video in the presence of the attorney and stated that the Court reporter would not take anything down until there were redactions and made redactions of the video.

In response to the Court's inquiry, Mr. Fuisting informed the Court that he did not want the video in at all.

The Court noted some of the video was admissible and noted the redactions.

Mr. Fuisting presented argument in support of his objection of the video being played and formally lodged his objection.

Mr. Knell presented argument in support of the video.

The Court recessed at 12:35 p.m.

The Court reconvened at 1:17 p.m. with all parties present. The jury panel was present and in the charge of the Bailiff.

The Court advised the defendant of his right to challenge the jury for cause.

In response to the Court's inquiry, each of counsel waived the roll call of the jury panel.

The Court apologized for the delay in the jury selection and explained to the jury panel how the trial was to run, explained the phases of the trial, read the title of the case, and introduced counsel and the defendant to the jury panel.

All jurors were sworn voir dire at 1:35 p.m.

The Court examined the proposed jury panel as a whole.

The Court explained to the proposed jury panel what was involved in the voir dire process.

The clerk drew twenty seven (27) jurors numbers, one at a time, and the following prospective jurors were seated:

#626	#622	#606	#604	#619	#615
#625	#578	#618	#573	#630	#610
#624	#598	#629	#614	#586	
#591	#605	#607	#627	#590	
#628	#620	#612	#602	#589	

Mr. Knell examined the jury panel as a whole.

The Court recessed at 2:49 p.m.

The Court reconvened at 3:24 p.m. with all parties present and the jury panel in charge of the bailiff.

The Court noted that it was advised that a juror was acquainted with the defendant and or the defendant's family. The Court direct examined juror #590, and determined juror should be excused for cause.

In response to the Court's inquiry, each of counsel, had no objection to juror #590 being excused.

The clerk called juror #592. The Court direct examined juror #592.

In response to the Court's inquiry, each of counsel passed juror #592 for cause and waived the roll call of the jury.

Mr. Fuisting examined the jury panel as a whole and passed the jury panel for cause.

The Court explained to the jury panel the process of picking the final jury and instructed each of counsel to exercise their preemptory challenges. (Per the Court permission, the recording stopped at 3:54 p.m. – 4:09 p.m.)

The Court instructed the clerk to call the selected jurors, selected jurors were called

by the Clerk to well and truly try the matter at issue: **#591, #605, #620, #606, #629, #607, #604, #614, #602, #630, #586, #592, and #615.**

In answer to the Court's inquiry, each of counsel accepted the Jury as called and seated.

The jury was sworn by the clerk to well and truly try the matter at issue at 4:11 p.m.

The Court thanked and excused the remaining jurors, instructing them to report to the Jury Commissioner.

The Court noted that it had previously provided each of counsel copies of the initial jury instructions and determined that there was no objection to instructions #1 through #7.

The Court provided each of counsel a copy of the additional instructions.

The Court reviewed the charging information and the preliminary jury instruction.

Mr. Knell presented opening statements.

Bailiff.

Mr. Fuisting reserved his opening statements.

The Court instructed the State to call their first witness.

The State's first witness, **JANET MURAKAMI**, was called, sworn by the clerk. Mr. Fuisting initially objected as the witness looked as if she had a report in her hand and she could not refer to it, Mr. Knell presented argument in opposition. The Court noted that the witness could not refer to the report, had to testify from her recollection and if the proper foundation laid she could refer to the report.

Mr. Knell direct examined the witness, requested that the record reflect that the

witness identified the defendant. The Court so ordered. Direct examination continued,

The Court admonished and excused the jury panel at 5:01 p.m. in charge of the bailiff.

The Court instructed each of counsel and the defendant to be present at 8:30 a.m.

The Court noted that it had received some jury instructions and assumed that he had informed Judge Ford that they were stipulating that the substance was methamphetamines.

In response to the Court's inquiry, Mr. Fuisting informed the Court that there was a stipulation made at the time of the first continuance which was a pretty specific stipulation.

The Court noted that it was just bring the jury instructions to their attention because it had not seen this type of jury instructions before and assumed that it was based upon some earlier order that it was unaware of.

Mr. Knell informed the Court that the stipulation entered into was that he did not have to bring in his lab people if he didn't have to lay any foundation for lab work and would just put the lab work through the trooper.

The Court recessed at 5:04 p.m.


Deputy Clerk

JUL 09 2009

CANYON COUNTY CLERK
G HERNANDEZ, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,

Plaintiff

-VS-

Amirato C. Betancourt, IV
Defendant

CASE NO. 2008-30874 K C
2008-36778 K C
FELONY BENCH WARRANT
OF ARREST

TO ANY SHERIFF, CONSTABLE, MARSHAL, POLICEMAN, OR PEACE OFFICER
IN THE STATE OF IDAHO:

The Court having this date entered it's order for the issuance of a Bench Warrant for the arrest of the above named defendant for failure to appear in court as heretofore ordered by this court, and the defendant having previously been charged with Possession of a Controlled Substance; Driving under the influence in violation of Idaho Code Section(s) 137-2732(c)(1); 18-8004(M); Carrying a Concealed Weapon, a felony. While under the influence
YOU ARE HEREBY COMMANDED forthwith to arrest the above named defendant and bring said defendant before the undersigned District Court Judge, or if said Judge is unavailable, then before the nearest available Magistrate. This Warrant may be served at any time during the hours of day or night.

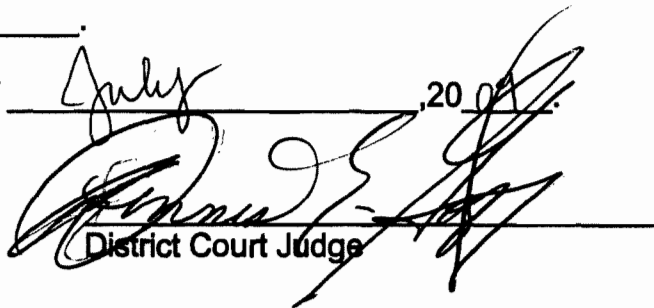
After considering the facts pertaining to the defendant and the crime, the bail is set

BENCH WARRANT {FELONY}

000086

in the amount of \$ 20,000⁰⁰.

Dated this 9th day of July, 2001.


District Court Judge

Race: _____ Hair: _____ Eyes: _____

Height: _____ Weight: _____ DOB: _____

SS#: _____ Other: _____

Agency: _____ Prosecutor: _____

RETURN

STATE OF IDAHO)ss.
County of Canyon)

I HEREBY CERTIFY that I received this Warrant on _____
and served the said Warrant by arresting the within named
defendant _____ on _____

(Name)

(Title)

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

PRESIDING: **DENNIS E. GOFF** DATE: July 10, 2009

THE STATE OF IDAHO,

Plaintiff,

vs,

ANICETO C. BETANCOURT,

Defendant.

COURT MINUTE

CASE NO: CR2009-30874*C

REPORTED BY: Denice Graham

DCRT 4 (911-213)

This having been the time heretofore set for **2nd day trial to a jury** in the above entitled matter, the State was represented by counsel, Mr. Brad Knell, Special Deputy Prosecuting Attorney for Canyon County and the defendant appeared in court with counsel, Mr. Lance Fuisting.

The Court convened at 9:11 a.m. outside the presence of the jury with all parties present.

Upon the Court's inquiry, Mr. Fuisting indicated he would lodge and continue his objection to the playing of the State's video, even in it's redacted version. It was irrelevant evidence that this Court had excluded and was highly prejudicial to his client. Further, any relevant information had been previously testified to before the jury.

Mr. Knell stated he understood Mr. Fuisting's continuing objection but advised he believed the remaining portion of the video met the requirements of the Court's ruling from yesterday.

The Court advised the parties the video he had just reviewed with counsel and the defendant, the State actually had redacted more of the video than the Court had required.

Therefore, the Court felt the video was relevant.

Mr. Fuisting advised the Court he had an additional motion, under Idaho Criminal Rules 29.1, for a mistrial based on trooper Murakami's testimony yesterday. She had volunteered multiple times the defendant had invoked his right to remain silent, which was highly prejudicial to his client and may have tainted the jury.

Mr. Knell indicated he did not believe there was any testimony that prejudiced the defendant. He would not have any objections to any curative instructions that made clear to the jury any legal ramifications Mr. Fuisting may be concerned about.

Mr. Fuisting further responded.

The Court reviewed Idaho Criminal Rule 29.1, presented findings of fact and conclusions of law and denied Mr. Fuisting's motion for mistrial.

The jury was delivered to the courtroom in charge of the Bailiff at 9:22 a.m.

In answer to the Court's inquiry, each of counsel waived roll call of the jury.

The State's first witness, **JANET MURAKAMI**, resumed the stand and was reminded she continued to be under oath. Mr. Knell continued with direct examination and moved for admission of State's exhibit #1 and #1A, redacted DVD's. Mr. Fuisting continued his objection of the relevance of the DVD's. The Court overruled his objection and admitted State's exhibit #1 into evidence for the Court's record purpose only and admitted State's exhibit 1A into evidence. Upon Mr. Knell's request, State's exhibit #1A was published to the jury.

In answer to the Court's inquiry, each of counsel stipulated the court reporter did not have to document the contents of the audio recording.

Mr. Knell requested that counsel be allowed to approach the bench.

After a brief sidebar, Mr. Knell continued with direct examination.

State's exhibit #2 was presented to the witness and identified as a controlled substance

analysis report. Mr. Knell continued with direct examination. The Court allowed Mr. Fuisting to question the witness in aid of objection. Mr. Fuisting withdrew his objection. Mr. Knell moved for the admission of State's exhibit #2 and there being no objection, the Court admitted State's exhibit #2 into evidence.

State's exhibit #3 was presented to the witness and identified as a blood analysis report. Mr. Knell continued with direct examination. The Court allowed Mr. Fuisting to question the witness in aid of objection. Mr. Fuisting withdrew his objection. Mr. Knell moved for the admission of State's exhibit #3 and there being no objection, the Court admitted State's exhibit #3 into evidence.

Mr. Fuisting began cross examination. The witness was presented with an exhibit identified as a towed vehicle inventory report. Mr. Fuisting continued with cross examination. The witness was presented with an exhibit identified as an ISP toxicology evidence submittal form. Mr. Fuisting continued with cross examination. The witness was re-direct examined, re-cross examined and excused from the stand, however, was directed to remain outside the courtroom for possible recall.

The State's second witness, **BRANDON BAKE**, was sworn by the clerk and direct examined. State's exhibit #4 was presented to the witness and identified as a photograph. Mr. Knell moved for the admission of State's exhibit #4 and there being no objection, State's exhibit #4 was admitted into evidence. Upon Mr. Knell's request, State's exhibit #4 was published to the jury. Mr. Knell continued with direct examination. State's exhibit #5 was marked by the clerk, presented to the witness and identified as a photograph. Mr. Knell moved for admission of State's exhibit #5. Mr. Fuisting objected the photograph was cumulative. The Court overruled his objection and State's exhibit #5 was admitted into evidence. Upon Mr. Knell's request, State's exhibit #5 was published to the jury. Mr. Knell continued with direct examination. The witness was cross examined and presented with an exhibit identified as a towed vehicle inventory notice. Mr. Fuisting continued with cross examination. State's exhibit #4 was presented to the witness. Mr. Fuisting continued with

cross examination. The witness was excused from the stand, however, was directed to remain outside the courtroom for possible recall.

Mr. Knell advised the Court the State rested.

The Court admonished the jury regarding their conduct and recessed at 10:33 a.m.

The Court advised the defendant he had both the right to and the right not to testify. He had previously shown concern about not waiving any of his rights and whichever right he chose, the other would have to be waived. Further, he would be exercising those rights voluntarily, knowingly, intentionally and intelligently. The Court explained the procedure of testifying to the defendant.

Upon the Court's inquiry, the defendant indicated he understood and that no one had forced, threatened, coerced or intimidated him in any way to cause him to exercise one constitutional right, thereby waiving the other constitutional right. Further, the defendant stated he would not be testifying today.

Mr. Fuisting concurred and indicated there would be no further witnesses or evidence to present but had a motion to put on the record under Rule 29 for a judgment of acquittal and presented argument to the Court in support of the motion.

Mr. Knell presented argument to the Court in opposition of the motion.

The Court reviewed Idaho Criminal Rule 29A, presented findings of fact and conclusions of law and denied Mr. Fuisting's motion for acquittal.

The Court inquired if there were any objections to the proposed jury instructions #8-#21 and the verdict form.

Mr. Fuisting advised the Court in instruction #11, he did not believe the second sentence was necessary.

Mr. Knell stated he believed it was appropriate.

The Court indicated it would be left in the instructions.

Mr. Fuisting requested in instruction #11 the Court consider adding a sentence at the end consistent with State vs. Garza that said mere proximity to a controlled substance was insufficient to establish possession.

The Court stated it would have its law clerk give each of counsel case law from the cases that defense counsel cited as well as cases that were reviewed from the comments from the Idaho Criminal Jury Instructions. The Court added a sentence to instruction #11 which clarified and addressed more specifically and clearly the defendant's concern on the jury instructions because it was a principle of law set forth in several different cases.

The Court inquired if the change met the defense's objection to instruction #11.

Mr. Fuisting indicated he would object to the language.

Mr. Knell stated it was the language of the case and he had no objection.

The Court advised Mr. Fuisting it had to follow the Idaho Criminal Jury Instructions unless it could make a specific record and the rules suggest Instruction #11 as worded without the last sentence. Based on Mr. Fuisting's concerns, the Court was willing to add an additional instruction. The Supreme Court stated no further language was necessary than the proposed jury instruction #11.

Mr. Fuisting stated he would withdraw his objection.

Upon the Court's inquiry, each of counsel indicated they had no further objections.

The Court recessed at 10:47 a.m.

The Court reconvened at 10:57 a.m. with all parties and the jury panel present.

In answer to the Court's inquiry, each of counsel waived roll call of the jury.

Mr. Fuisting advised the Court the defense rested.

The Court read the final jury instructions to the jury.

Mr. Knell presented closing arguments on behalf of the State.

Mr. Fuisting presented closing arguments on behalf of the defendant.

Mr. Knell presented rebuttal closing arguments on behalf of the State.

Upon the direction of the Court, the clerk placed the Bailiff under oath at 11:30 a.m.

Upon the direction of the Court, the clerk drew the following juror #630, as the alternate juror.

The Court thanked and excused the juror with instruction not to discuss this matter until a verdict was reached.

The jury retired to deliberate their verdict at 11:32 a.m.

The Court recessed at 11:33 a.m.

The Court reconvened at 1:44 p.m. outside the presence of the jury with all parties present.

The Court indicated the jury had inquired if they could review the police report. There was discussion on the specifics of the answer to the jury. It was decided the answer to the jury would be they had received all of the admissible evidence in this case. Each of counsel indicated they had no objection to said answer.

The Court recessed at 1:50 p.m.

The jury was delivered to the courtroom in charge of the Bailiff at 2:06 p.m.

In answer to the Court's inquiry, each of counsel waived roll call of the jury.

The Court inquired if the jury had reached a verdict and the following verdict was delivered to the Court by the Bailiff and read by the Court:

Title of court and cause

VERDICT OF THE JURY

We, the Jury, unanimously find the Defendant, **ANICETO C. BETANCOURT IV,**

GUILTY of Possession of a Controlled Substance.

Dated this 10th day of July, 2009.

#592
Presiding Juror

In answer to the Court's inquiry, the jury indicated that was their verdict.

Upon the Court's inquiry, each of counsel waived polling of the jury.

The Court accepted the verdict as being read into the record and instructed the clerk to record the same.

The Court read concluding instructions to the jury, thanked them for their services and excused them from these proceedings at 2:10 p.m.

The Court ordered a Presentence Investigation Report and set this matter for **sentencing on August 31, 2009 at 10:30 a.m. before Judge Ford.**

The defendant was released on the bond previously posted with the instruction to report on August 31st, at 10:30 a.m. prepared for sentencing and having previously read the Presentence Investigation Report. The Court further instructed the defendant to remain in contact with his attorney.

K. Beckley
Deputy Clerk

JUL 10 2009

CANYON COUNTY CLERK
K BECKLEY, DEPUTY

Would it be possible to
see the police report from
Officer Murakami?

You have received all of
the admissible evidence
in this case.

Reynolds E. Long
Senior District Judge

1:51 pm. 7/10/2009.

F I L E D
A.M. 2:13 P.M.

JUL 10 2009

**CANYON COUNTY CLERK
K BECKLEY, DEPUTY**

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

STATE OF IDAHO,

Plaintiff,

vs.

ANICETO BETANCOURT IV,

Defendant.

CASE NO: CR-2008-30874-C

JURY INSTRUCTIONS

000097

ORIGINAL

INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charge against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

INSTRUCTION NO. 2

This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as the prosecution.

The defendant is charged by the state of Idaho with a violation of the law. The charges against the defendant are contained in the Information. I have read these to you. To the charges, the defendant has entered his pleas of "Not Guilty." The pleas of "Not Guilty" put in issue every material allegation of the charges against the defendant.

The Information is simply formal methods of accusing a defendant; they are not evidence for any purpose.

INSTRUCTION NO. 3

A defendant in a criminal action is presumed to be innocent. This presumption places upon the state the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant's guilt, you must return a verdict of not guilty.

Reasonable doubt is defined as follows: It is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction of the truth of the charge.

INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might

have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The

same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

INSTRUCTION NO. 5

If during the trial I may say or do anything, which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

INSTRUCTION NO. 6

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note-taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

INSTRUCTION NO. 7

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

First, do not talk about this case either among yourselves or with anyone else during the course of the trial. You should keep an open mind throughout the trial and not form or express an opinion about the case. You should only reach your decision after you have heard all the evidence, after you have heard my final instruction and after the final arguments. You may discuss this case with the other members of the jury only after it is submitted to you for your decision. All such discussion should take place in the jury room.

Second, do not let any person talk about this case in your presence. If anyone does talk about it, tell them you are a juror on the case. If they won't stop talking, report that to the bailiff as soon as you are able to do so. You should not tell any of your fellow jurors about what has happened.

Third, during this trial do not talk with any of the parties, their lawyers or any witnesses. By this, I mean not only do not talk about the case, but do not talk at all, even to pass the time of day. In no other way can all parties be assured of the fairness they are entitled to expect from you as jurors.

Fourth, during this trial do not make any investigation of this case or inquiry outside of the courtroom on your own. Do not go any place mentioned in the testimony without an explicit order from me to do so. You must not consult any books, dictionaries, encyclopedias or any other source of information unless I specifically authorize you to do so.

Fifth, do not read about the case in the newspapers. Do not listen to radio or television broadcasts about the trial. You must base your verdict solely on what is presented in court and not upon any newspaper, radio, television or other account of what may have happened.

INSTRUCTION NO. 8

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 9

In order for the defendant to be guilty of Possession of a Controlled Substance, the state must prove each of the following:

1. On or about September 29, 2008
2. in the state of Idaho
3. the defendant Aniceto Betancourt possessed any amount of methamphetamine, and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 10

Under law, methamphetamine is a controlled substance.

000110

INSTRUCTION NO. 11

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it. More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

A person has possession when there is a nexus between that person and the substance that is sufficiently proven so as to give rise to the reasonable inference that the accused was not simply a bystander, but, rather, had the power and intent to exercise dominion and control over the substance.

INSTRUCTION NO. 12

You are instructed that an Idaho State Forensic Scientist analyzed the white substance found in the ziplock bag which was found in the vehicle the defendant was driving. The Forensic Scientist concluded that the substance in the bag contained methamphetamine.

You are to accept this as fact and not question or consider the procedures used by the Forensic Scientist or his/her qualifications to conduct such an analysis.

INSTRUCTION NO. 13

You are instructed that an Idaho State Forensic Scientist analyzed the blood sample which was drawn from the defendant shortly after his arrest. The Forensic Scientist concluded that the sample contained methamphetamine.

You are to accept this as fact and not question or consider the procedures used by the Forensic Scientist or his/her qualifications to conduct such an analysis.

INSTRUCTION NO. 14

It is alleged that the crime charged was committed "on or about" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

INSTRUCTION NO. 15

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

INSTRUCTION NO. 16

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 11

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. anything you may have seen or heard when the court was not in session.

INSTRUCTION NO. 18

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

INSTRUCTION NO. 19

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

INSTRUCTION NO. 20

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

INSTRUCTION NO. 21

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

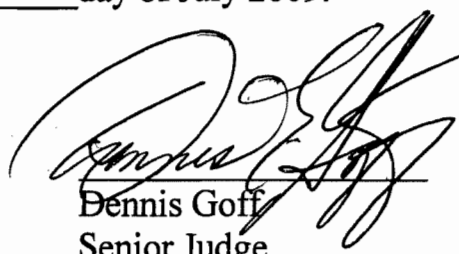
In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a signed note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

DATED This 10th day of July 2009.


Dennis Goff
Senior Judge

F I L E D
A.M. 2:13 P.M.

JUL 10 2009

**CANYON COUNTY CLERK
K BECKLEY, DEPUTY**

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

STATE OF IDAHO,

Plaintiff,

vs.

ANICETO BETANCOURT IV,

Defendant.

CASE NO: CR-2008-30874-C

VERDICT FORM

We, the Jury, unanimously find the Defendant, Aniceto Betancourt IV,

☐ **NOT GUILTY** of Possession of Controlled Substance.

☒ **GUILTY** of Possession of Controlled Substance.

Dated this 10 day of July, 2009.

Bill Fuller

Presiding Juror No. 592

000123

Third Judicial District Court, State of Idaho
In and For the County of Canyon
NOTICE OF ORDER FOR PRESENTENCE REPORT

RESET (Clerk, check if applicable)
Assigned to: _____

FILED: 7/10/09 210p M.

Assigned: _____ Due Date: _____

By: K. Beckley, Deputy.

STATE OF IDAHO
Plaintiff,

vs.

Aniceto C. Betancourt, IV
Defendant

Case No: CR08-30874C

CHARGE(s): Possession of a
Controlled Substance

On this 10th day of July, 20 09, a Pre-sentence Investigation Report was
ordered by the Honorable Judge Goff to be completed for Court appearance on
8/31/09 @ 10:30 a.m. 20 09 - Judge Ford

EVALUATIONS TO BE DONE: Copy of each evaluation to be sent to Presentence Investigation Office to be included with PSI

Under IC 19-2524 assessment(s) is(are) ordered which shall include a criminogenic risk assessment of the defendant pursuant to (IC 19-2524(4)):

- ☐ Mental Health Examination as defined in IC 19-2524(3), including any plan for treatment (PSMH1 ROA code); and/or
☐ Substance Abuse Assessment as defined in IC 19-2524(2) including any plan for treatment (PSSA1 ROA code)

Other non-IC 19-2524 evaluations/examinations ordered for use with the PSI:

- ☐ Sex Offender ☐ Domestic Violence ☐ Other _____ Evaluator: _____
☒ No evaluations are ordered. (PSIO1 ROA code)

DEFENSE COUNSEL: Lance Frusting

PROSECUTOR: Brad Knell-Special Ada County Prosecutor
287-7709

THE DEFENDANT IS IN CUSTODY: ☐ YES ☒ NO If yes, where: _____

DEFENDANT'S INFORMATION: [REDACTED]

DO YOU NEED AN INTERPRETER? ☐ YES ☒ NO

Name: Aniceto Betancourt ☒ Male ☐ Female ☐ RACE: Caucasian ☒ Hispanic ☐ Other

Address: 2183 Stephen Ave. #102 City: Boise State: ID ZIP: _____

Telephone: 658-1304 Message Phone: _____ Work Phone: _____

Employer: N/A Work Address: _____

Date of Birth: [REDACTED] Social Security Number: [REDACTED]

Name & Phone Number of nearest relative: Mario Betancourt 482-6228

Date of Arrest: 9/29/08 Arresting Agency: ISP

Your assigned Pre-sentence Investigator will contact you to schedule an interview using the above information. Please have your Pre-sentence Investigation Personal History Questionnaire filled out completely for interview.

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
HEARING CONTINUED

State of Idaho
Plaintiff,
-vs-
Aniceta Betancourt, IV
Defendant.

Case No. CR08-30874C, CR08-30178C

Date: 08/31/09

Judge: Bradly d. Ford

Tape: DCR 5 (1043-1049)

Hearing: Sentencing

Reporter: Yvonne Hyde Gier

APPEARANCES:

- ☒ The State of Idaho ☒ Deputy Prosecutor Brad Knell
☐ City Prosecutor
☐ Deputy Attorney General
☐ Plaintiff ☐ Plaintiff's Attorney
☒ Defendant ☒ Defendant's Attorney Mandy Hessinger
☐ Interpreter

PROCEEDINGS: This matter shall be

- ☐ set for a date certain
☐ on the stipulation of counsel.
☐ at the request of
☒ continued to 10/06/09 @ 3:30pm ☒ before Judge Ford
☒ on the stipulation of counsel.
☐ at the request of
☐ passed to the miscellaneous calendar.
☐ No one appeared on behalf of either party.
☐ No proof of service was filed.

CUSTODY:

- ☐ Released on written citation promise to appear. ☒ Released on bond previously posted.
☐ Released on own recognizance (O.R.) ☐ Remanded to the custody of the sheriff.
☐ Released to pre-trial release officer. ☐ Bail set at \$

OTHER: Defendant to obtain a substance abuse assessment pursuant to ICS 192524.

Munnell, Deputy Clerk

Third Judicial District Court, State of Idaho
In and For the County of Canyon
NOTICE OF ORDER FOR PRESENTENCE REPORT

Substance Abuse
Assessment

RESET (Clerk, check if applicable)
Assigned to: _____

FILED: 08/31/09 10:48 A.M.

Assigned: _____ Due Date: _____

By: Menne, Deputy.

STATE OF IDAHO
Plaintiff,

Case No: CR08-30874C

vs.

CHARGE(s): Possession of a

Aniceto C. Botancourt, IV
Defendant

Controlled Substance

On this 31 day of August, 2009, a Substance Abuse Assessment
Pre-sentence Investigation Report was
ordered by the Honorable Bradly S. Ford to be completed for Court appearance on
06 October 2009 @ 3:30pm 20 .

EVALUATIONS TO BE DONE: Copy of each evaluation to be sent to Presentence Investigation Office to be included with PSI
Under IC 19-2524 assessment(s) is(are) ordered which shall include a criminogenic risk assessment of the defendant
pursuant to (IC 19-2524(4)):

- ☐ Mental Health Examination as defined in IC 19-2524(3), including any plan for treatment (PSMH1 ROA code); and/or
☒ Substance Abuse Assessment as defined in IC 19-2524(2) including any plan for treatment (PSSA1 ROA code)

Other non-IC 19-2524 evaluations/examinations ordered for use with the PSI:

- ☐ Sex Offender ☐ Domestic Violence ☐ Other _____ Evaluator: _____
☐ No evaluations are ordered. (PSIO1 ROA code)

DEFENSE COUNSEL: Mandy Hessinger

PROSECUTOR: Brad Knell (Ada Co) - 200 W. Front St. Room 3191 - Boise, ID 83702

THE DEFENDANT IS IN CUSTODY: ☐ YES ☒ NO If yes, where: _____

DEFENDANT'S INFORMATION:

DO YOU NEED AN INTERPRETER? ☐ YES ☒ NO

Name: _____ ☒ Male ☐ Female RACE: Caucasian ☒ Hispanic ☐ Other

Address: 2183 Stephen Ave #102 City: Boise State: ID ZIP: _____

Telephone: 658-1304 Message Phone: _____ Work Phone: _____

Employer: _____ Work Address: _____

Date of Birth: _____ Social Security Number: _____

Name & Phone Number of nearest relative: Mario Botancourt 482-6228

Date of Arrest: 09/29/08 Arresting Agency: LSP

Your assigned Pre-sentence Investigator will contact you to schedule an interview using the above information. Please
have your Pre-sentence Investigation Personal History Questionnaire filled out completely for interview.

☐ Fax P&P 454-7624

[] Defendant

NOTICE OF ORDER FOR PRESENTENCE REPORT

Substance Abuse Assessment
000126

12/2008

TRANSMISSION VERIFICATION REPORT

TIME : 08/31/2009 12:12

DATE, TIME	08/31 12:12
FAX NO / NAME	94547624
DURATION	00:00:34
PAGE(S)	01
RESULT	OK
MODE	STANDARD
	ECM

000127

IN THE DISTRICT COURT OF THE THIRD JUCICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
PRESIDING: **BRADLY S. FORD** DATE: OCTOBER 06, 2009

THE STATE OF IDAHO,

Plaintiff,

vs

ANICETO C. BETANCOURT, IV,

Defendant.

COURT MINUTES

CASE NO. CR-2008-30874-C
CR-2008-30778-C

TIME: 3:30 P.M.

REPORTED BY: Yvonne Hyde Gier

DCRT 5 (340-345)(348-450)

This having been the time heretofore set for **sentencing** in the above entitled matter, the State was represented by Mr. Brad Knell, Special Deputy Prosecuting Attorney for Canyon County, Idaho; and the defendant was present in court with counsel, Mr. William Schwartz.

The Court reviewed prior proceedings held in this matter.

In answer to the Court's inquiry, all parties indicated the relevant procedural history was accurately recited.

The Court determined all parties had received and reviewed the Presentence Investigation Report and attached evaluations. In answer to the Court's inquiry, factual corrections were stated for the record.

The Court determined neither the State nor the defense had testimony / evidence to present in aggravation or mitigation.

Mr. Knell made statements in regard to the defendant and recommended on the charge of Possession of a Controlled Substance, a seven (7) year sentence with the Court retaining

jurisdiction. Further, a fine in the amount of \$15,000.00, and \$300.00 restitution. On the charge of Driving Under the Influence, a \$1000.00 fine plus court costs, \$250.00 suspended. One hundred eighty (180) days county jail, one hundred seventy (170) suspended, a six (6) month drivers license suspension, and attend a victim impact panel. On the charge of Carrying a Concealed Weapon While Under the Influence, a fine of \$300.00 plus court costs.

Mr. Schwartz made statements on the defendant's behalf, and recommended on the charge of Possession of a Controlled Substance, probation with an underlying sentence of two (2) years fixed, three (3) years indeterminate, for a total unified term of five (5) years. On the charge of Driving Under the Influence, first time penalties. On the charge of Carrying a Concealed Weapon While Under the Influence of Alcohol, suspended fine and jail time.

The defendant made statements to the Court on his own behalf.

The Court reviewed sentencing criteria for the record.

On the charge of **Driving Under the Influence**, a misdemeanor, the Court sentenced the defendant as follows: A fine in the amount of \$590.50 to be paid by the 1st day of November 2009. One hundred fifty (150) days county jail, one hundred forty-five (145) days suspended, credit for five (5) days served; consecutive to any other sentence. Six (6) month drivers license suspension commencing this date, the first thirty (30) days are absolute. Supervised probation for eighteen (18) months, with standard terms and conditions. On the charge of **Carrying a Concealed Weapon While Under the Influence**, a misdemeanor, the Court sentenced the defendant as follows: A fine in the amount of \$250.00 to be paid by the 1st day of November 2010. one hundred eighty (180) days county jail, one hundred seventy-five (175) days suspended, credit for five (5) days; consecutive to any other sentence. Supervised probation for eighteen (18) months, with standard terms and conditions. The Court Ordered the defendant may be supervised by felony probation officer on all matters.

There being no legal cause shown why judgment should not be pronounced, the Court found the defendant to be guilty of the offense of **Possession of a Controlled Substance**, a felony, and sentenced the defendant to the Idaho State Board of Correction for a minimum period of confinement of three (3) years, followed by a subsequent indeterminate period of confinement not to exceed three (3) years, for a total unified term of six (6) years; with credit for time served.

The Court suspended the execution of the sentence for a period of six (6) years, commencing the 6th day of October 2009, during which time the defendant will be placed on probation under the direction of the Department of Probation and Parole, to comply with all of the standard terms of probation, which were explained to the defendant, and the following special conditions: The defendant shall pay court costs and fees in the amount of \$110.50, a fine in the amount of \$500.00 with \$500.00 suspended, reimburse Canyon County for the cost of legal representation in the amount of \$350.00, and restitution in the amount of \$300.00 (The State shall submit a Restitution Order). All amounts due and owing shall be paid on a schedule to be fixed by his probation officer. The defendant shall pay a monthly supervision fee as set by the supervising officer. The defendant shall enroll in and successfully complete any programs of rehabilitation recommended by the probation officer including programs of substance abuse, mental health counseling, anger counseling, self-esteem counseling, and vocational rehabilitation. The defendant shall obtain another substance abuse assessment pursuant to ICS 19-2524, and provide full history (if required by the supervising officer). The defendant shall obtain a mental health examination pursuant to ICS 19-2524, and follow the recommendations as required by the supervising officer. The defendant shall not enter into any establishment where the sale of alcohol is the primary source of revenue. The defendant shall serve three hundred sixty (360) days in the Canyon County Jail with three hundred sixty (360)

days suspended to be used at the discretion of supervising officer and approval of the Court. The defendant shall report to the Canyon County Jail the 18th day of December 2009 at 5:00 p.m., to serve sixty (60) days. The defendant shall perform one hundred (100) hours community service and complete at a time set by the supervising officer. The defendant shall maintain full-time employment if not attending school, and reason employment if attending school. The defendant shall possess no weapons. The defendant shall comply with the recommendations contained in the Presentence Investigation Report. The Court had no objection to the defendant residing and attending school in Ada County. The Court had no objection to transfer of probation to the Fourth District.

In answer to the Court's inquiry, the defendant stated he understood and would abide by the terms and conditions of probation.

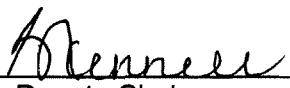
The Court advised the defendant that his probation could be revoked, modified or extended. If he violated the terms of probation, he would be brought back before the Court and the full sentence could be executed.

The Court advised the defendant that he had the right to appeal the final judgment of this Court to the Idaho Supreme Court within forty-two (42) days from the date sentence is imposed, the right to file one (1) motion for sentence modification within one hundred twenty (120) days from date sentence is imposed (within fourteen (14) days from date of sentence on a probation violation); and the right to file post-conviction proceedings within one (1) year from the expiration of the time for appeal or determination of an appeal, whichever is later. The Court further advised the defendant that he had the right to an attorney in all these proceedings, and the right to court appointed counsel if found to be indigent.

The defendant was provided with a Notice to Defendant Upon Sentencing, and upon direction of the Court, reviewed and signed the same.

Each of counsel returned their copy of the Presentence Investigation Report to the court clerk.

The defendant was released on probation, and Ordered to immediately report to the Department of Probation and Parole.


Deputy Clerk

CANYON COUNTY CLERK
S FENNELL, DEPUTY

000133

such motion. Finally, in those instances where a court retains jurisdiction pursuant to the Idaho Code, the length of time the district court actually retains jurisdiction enlarges the time to file an appeal. This means when the court releases its retained jurisdiction or places you on probation, the time within which to appeal commences to run. Idaho Appellate Rule 14.

You are also notified that you may file one motion for sentence modification within 120 days from date sentence is imposed (within fourteen (14) days from date of sentence on a probation violation). Idaho Criminal Rule 35.

You are further notified that you have a right to file post-conviction proceedings within one (1) year from the expiration of the time for appeal or determination of an appeal, whichever is later. Idaho Code Section 19-4901 et. seq.

Further, if you are unable to pay the costs of any of the above proceedings, you may apply to this Court for leave to proceed in forma pauperis. Idaho Criminal Rule 33(a)(3); Idaho Code 19-4904.

Further, you are informed that in exercising any of the above proceedings, you have the right to the assistance of counsel, and if you are an indigent person, you have the right to the assistance of an attorney at public expense. Idaho Code Section 19-852; 19-4904.

DATED: _____

October 6th, 2009

District Judge- Bradly S. Ford

Defendant's Signature

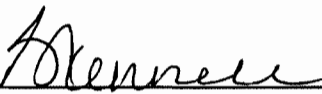
CERTIFICATION OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **NOTICE TO DEFENDANT UPON SENTENCING** was mailed and/or hand delivered to the following persons on this 06 day of October, 2009.

John T. Bujak
Prosecutor
Caldwell, Idaho 83605

Mirmura Law Office
Public Defender
2176 E. Franklin Road, Ste. 120
Meridian, Idaho 83642

Aniceto Betencourt, Defendant



Deputy Clerk of the Court

THIRD DISTRICT COURT, STATE OF IDAHO
COUNTY OF TETON
JUDGMENT

FILED: 10/06/09 at 4:30 p. M.
CLERK: THE DISTRICT COURT

By: McInnell Deputy

State of Idaho vs.
Aniceto C Betancourt IV
2183 Steven
Boise ID 83706
D.L. # [REDACTED]
DOB: [REDACTED]

PROSECUTOR: Brad Knell
DEFENSE ATTORNEY: William Schwartz
INTERPRETER:
TAPE NO: DCR 15 (340-345) (348-450)
AGENCY: IDAHO STATE POLICE
CITATION NO.: 1337978

* CASE NO.: **CR-2008-0030778-C**
CHARGE: 118-3302B Weapon-Carry Concealed While Under The
Influence
AMENDED

BOND: _____

The Defendant, having been fully advised of his/her statutory and constitutional rights, including the right to be represented by counsel
☒ pleaded guilty. ☐ was found guilty. ☐ was found not guilty.
☐ State moved to dismiss this charge. ☐ Charge is dismissed. ☐ Infraction default entered.
☒ Conviction is entered. ☐ Judgment is withheld.

JUDGMENT:

☐ The bond is ☐ exonerated. ☐ forfeited and case closed. ☐ to be applied to the fine and costs.
☐ No Contact Order ☐ dismissed. ☐ imposed as a term of probation.

PAYMENTS: Defendant shall pay immediately, or as provided in payment agreement, as follows:

\$ 250.00 which includes fine and court costs. \$ _____ suspended. to be paid
by 11/1/2009. Pay \$ _____ per _____ to begin
☐ Reimburse for atty or P.D. \$ _____ by _____ / \$ _____ per month.
☐ \$ _____ restitution to _____

Make payments payable to Canyon County Clerk, include case number, and send to Court Fine/Fees, 1115 Albany Street,
Caldwell, ID 83605. Telephone: 454-7494 All installment payments are subject to a \$2.00 handling fee. Failure to pay
your fine by the due date may result in your account being turned over to a collection agency.

JAIL: Defendant shall serve 180 days in jail with 175 days suspended and credit for 5 days served.
_____ days to be served at the discretion of the probation officer.

Defendant shall report to jail ☐ Immediately ☐ on _____
☐ Work release / work search granted in all counties and Defendant shall report to jail immediately to make arrangements.
☐ Sheriff's Work Detail: _____ days in lieu of _____ days jail to be completed by _____ and Defendant shall
report to jail immediately to make arrangements. If the Defendant fails to report to the jail as ordered or at a time agreed upon
with the jail, or fails to satisfactorily perform the Defendant's obligations with the Sheriff Inmate Labor Detail, then the Sheriff is
ordered and directed to place the Defendant in custody to serve the Defendant's jail time that has not been suspended.
This jail sentence is ☐ concurrent ☒ consecutive with any jail sentence previously ordered.

DRIVING PRIVILEGES suspended for _____ days/months beginning on

☐ the date of this Judgment. ☐ _____
☐ D.W.P.: The period of suspension shall commence following the end of any prior period of suspension, disqualification, or
revocation existing at the time of this offense.

Reinstatement of driving privileges must be accomplished before you can drive. Apply to: Driver's Services, P. O. Box 7129,
Boise, ID 83707-1129.

PROBATION: The Defendant shall be placed on ☒ supervised ☐ unsupervised probation for 18 months.

During the period of probation, all suspended penalties are subject to Defendant's compliance with all of the above orders and the
following conditions. The Defendant shall:

- ☐ If on supervised probation, report to the Misdemeanor Probation Dept. within five days of this Order and comply with all rules
and reporting requirements.
- ☒ not refuse evidentiary test for alcohol or drugs requested by a peace officer.
- ☒ keep Court informed in writing of Defendant's current mailing address and telephone number.
- ☒ not commit a felony or a misdemeanor. ☐ not violate conditions of No Contact Order.
- ☐ attend ☐ N.A. meetings for _____ weeks. ☐ A.A. meetings for _____ weeks and provide proof of completion
to the Court by _____
- ☒ not consume alcohol and/or any other mood altering substance unless prescribed by a physician.
- ☒ not operate any motor vehicle upon a public roadway unless validly licensed and insured.
- ☒ not operate any motor vehicle after having consumed any quantity of alcohol. ☐ Interlock Device required
- ☐ perform _____ hours of community service for C.S.A. to be completed by _____ and pay all community
service fees.
- ☒ within 100 days enroll in, and then promptly complete, Substance Abuse Counseling or

☒ Payment schedule and/or terms and conditions of probation accepted.
Defendant shall not possess weapons

Dated: 10/6/09 Signed: _____ Judge Judge No. 100

Copies to: ☒ Defendant ☐ Defense Attorney ☒ Misd. Prob. ☐ Dispatch
☐ Jail ☐ PreTrial Release ☐ Dr. Serv. ☐ Sup. Ct. ☐ Com. Ser. ☐ Counseling

JUDGMENT

000136

10/07

* See Corrected Judgment- 1020-09

THIRD DISTRICT COURT, STATE OF IDAHO
COUNTY OF CANYON
JUDGMENT

FILED: 10/16/09 at 4:29 p. M.
CLERK: THE DISTRICT COURT

By: McNell Deputy

State of Idaho vs.
Aniceto C Betancourt IV
2183 Steven
Boise ID 83706
D.L. #
DOB:

PROSECUTOR: Brad Knell
DEFENSE ATTORNEY: William Schwartz
INTERPRETER:
TAPE NO: DCR 15 (340345) (348-450)
AGENCY: IDAHO STATE POLICE
CITATION NO.: 1337978

* CASE NO.: CR-2008-0030778-C
CHARGE: 118-8004 M Driving Under The Influence
AMENDED

BOND:

The Defendant, having been fully advised of his/her statutory and constitutional rights, including the right to be represented by counsel
☒ pleaded guilty. ☐ was found guilty. ☐ was found not guilty.
☐ State moved to dismiss this charge. ☐ Charge is dismissed. ☐ Infraction default entered.
☒ Conviction is entered. ☐ Judgment is withheld.

JUDGMENT:

☐ The bond is ☐ exonerated. ☐ forfeited and case closed. ☐ to be applied to the fine and costs.
☐ No Contact Order ☐ dismissed. ☐ imposed as a term of probation.

PAYMENTS: Defendant shall pay immediately, or as provided in payment agreement, as follows:

\$ 590.70, which includes fine and court costs. \$ suspended. to be paid
by 11/1/2010. Pay \$ per to begin
☐ Reimburse for atty or P.D. \$ by / \$ per month.
☐ \$ restitution to

Make payments payable to Canyon County Clerk, include case number, and send to Court Fine/Fees, 1115 Albany Street, Caldwell, ID 83605. Telephone: 454-7494. All payments are subject to a \$2.00 handling fee. Failure to pay your fine by the due date may result in your account being turned over to a collection agency.

JAIL: Defendant shall serve 150 days in jail with 145 days suspended and credit for 5 days served.
 days to be served at the discretion of the probation officer.

Defendant shall report to jail ☐ immediately ☐ on
☐ Work release / work search granted in all counties and Defendant shall report to jail immediately to make arrangements.
☐ Sheriff's Work Detail: days in lieu of days jail to be completed by and Defendant shall report to jail immediately to make arrangements. If the Defendant fails to report to the jail as ordered or at a time agreed upon with the jail, or fails to satisfactorily perform the Defendant's obligations with the Sheriff Inmate Labor Detail, then the Sheriff is ordered and directed to place the Defendant in custody to serve the Defendant's jail time that has not been suspended.
This jail sentence is ☐ concurrent ☒ consecutive with any jail sentence previously ordered.

DRIVING PRIVILEGES suspended for 180 days/months beginning on

☐ the date of this Judgment. ☐
☐ D.W.P.: The period of suspension shall commence following the end of any prior period of suspension, disqualification, or revocation existing at the time of this offense.
Reinstatement of driving privileges must be accomplished before you can drive. Apply to: Driver's Services, P. O. Box 7129, Boise, ID 83707-1129.

PROBATION: The Defendant shall be placed on ☒ supervised ☐ unsupervised probation for 18 months.
During the period of probation, all suspended penalties are subject to Defendant's compliance with all of the above orders and the following conditions. The Defendant shall:

- ☒ If on supervised probation, report to the Misdemeanor Probation Dept. within five days of this Order and comply with all rules and reporting requirements. - 100 minutes to minimum weekly relay for supervision
- ☒ not refuse evidentiary test for alcohol or drugs requested by a peace officer.
- ☒ keep Court informed in writing of Defendant's current mailing address and telephone number.
- ☒ not commit a felony or a misdemeanor. ☐ not violate conditions of No Contact Order.
- ☒ attend ☐ N.A. meetings for weeks. ☐ A.A. meetings for weeks and provide proof of completion to the Court by
- ☒ not consume alcohol and/or any other mood altering substance unless prescribed by a physician.
- ☒ not operate any motor vehicle upon a public roadway unless validly licensed and insured.
- ☒ not operate any motor vehicle after having consumed any quantity of alcohol. ☐ Interlock Device required
- ☒ perform hours of community service for C.S.A. to be completed by and pay all community service fees
- ☒ within 100 days enroll in, and then promptly complete, Substance abuse counseling as recommended by Probation Officer
- ☒ Payment schedule and/or terms and conditions of probation accepted.

Dated: 10/16/09 Signed: Judge Judge No. 108

Copies to: ☒ Defendant ☐ Defense Attorney ☐ Misd. Prob. ☐ Dispatch
☐ Jail ☐ PreTrial Release ☐ Dr. Serv. ☐ Sup. Ct. ☐ Com. Ser. ☐ Counseling

JUDGMENT

10/07

000137

* See Corrected Judgment - 10-20-09

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 10/06/09 AT 4:34 p. M.
CLERK OF THE DISTRICT COURT
BY McEnnele, Deputy

THE STATE OF IDAHO, or

Plaintiff,

-vs-

Aniceto C. Betancourt, IV
Defendant.
DOB: 07/13/1978

Case No. CR08-30874C

COMMITMENT

Charge: Possession of a
Controlled Substance

IT IS HEREBY ORDERED that the above-named Defendant, having been found guilty as charged, be committed to the custody of the Sheriff of Canyon County, Idaho and that this Order of Commitment shall serve as authority for continued custody.

IT IS FURTHER ORDERED that the above-named Defendant shall serve:

- ☒ 60 day(s). ☐ _____ month(s). ☐ _____ year(s).
☐ as previously Ordered on the Judgment dated _____
☐ credit for _____ day(s) served.
☐ determinate _____ ☐ indeterminate _____ ☐ retained jurisdiction.
☐ work search/work-out privileges granted from _____ to _____

☐ upon written verification. ☐ as authorized by the Sheriff of Canyon County.

☐ Sheriff's Work Detail: _____ days in lieu of _____ days jail to be completed by _____

_____ If the Defendant fails to report to the jail as ordered or at a time agreed upon with the jail, or fails to satisfactorily perform the Defendant's obligations with the Sheriff Inmate Labor Detail, then the Sheriff is ordered and directed to place the Defendant in custody to serve the Defendant's jail time that has not been suspended.

☒ Other: Straight jail. NO options.

IT IS FURTHER ORDERED that the above-named Defendant shall report to the Canyon County Sheriff on or before 12/18/09 by 5:00 pm

Dated: 10/06/09

Signed: _____
Judge

☒ Jail ☐ Defendant

COMMITMENT

000138

3/02

STATE OF IDAHO VS.
Aniceto C. Betancourt, IV
2183 Steven
Boise, Idaho 83706

D.L. #: [REDACTED]
D.O.B.: [REDACTED]
CASE #: CR08-30874C
CHARGE: 18-3302B Weapon-Carrying Concealed While Under the Influence
AMENDED: _____

PROSECUTOR: _____
DEFENSE ATTORNEY: _____
INTERPRETER: _____
RECORDING: _____
AGENCY: _____
BOND: _____

The Defendant, having been fully advised of his/her statutory and constitutional rights, including the right to be represented by counsel,
☒ pleaded guilty. ☐ was found guilty. ☐ was found not guilty.
☐ State moved to dismiss this charge. ☐ Charge is dismissed. ☐ Infraction default entered.
☒ Conviction is entered. ☐ Judgment is withheld.

JUDGMENT:
☐ The bond is ☐ exonerated. ☐ forfeited and case closed. ☐ to be applied to the fine and costs.
☐ No Contact Order ☐ dismissed. ☐ imposed as a term of probation.

PAYMENTS: Defendant shall pay immediately, or as provided in payment agreement, as follows:
\$ 250.00, which includes fine and court costs. \$ _____, suspended. to be paid
by 11/01/2010. Pay \$ _____ per _____ to begin _____
☐ Reimburse for atty or P.D. \$ _____ by _____ / \$ _____ per month.
☐ \$ _____ restitution to _____
Make payments payable to Canyon County Clerk, include case number, and send to Court Fine/Fees, 1115 Albany Street, Caldwell, ID 83605. Telephone: 454-7494 All installment payments are subject to a \$2.00 handling fee. Failure to pay your fine by the due date may result in your account being turned over to a collection agency.

JAIL: Defendant shall serve 180 days in jail with 175 days suspended and credit for 5 days served.
_____ days to be served at the discretion of the probation officer.
Defendant shall report to jail ☐ immediately ☐ on _____
☐ Work release / work search granted in all counties and Defendant shall report to jail immediately to make arrangements.
☐ Sheriff's Work Detail: _____ days in lieu of _____ days jail to be completed by _____ and Defendant shall report to jail immediately to make arrangements. If the Defendant fails to report to the jail as ordered or at a time agreed upon with the jail, or fails to satisfactorily perform the Defendant's obligations with the Sheriff Inmate Labor Detail, then the Sheriff is ordered and directed to place the Defendant in custody to serve the Defendant's jail time that has not been suspended.
This jail sentence is ☐ concurrent ☒ consecutive with any jail sentence previously ordered.

DRIVING PRIVILEGES suspended for _____ days/months beginning on _____
☐ the date of this Judgment. ☐ _____
☐ D.W.P.: The period of suspension shall commence following the end of any prior period of suspension, disqualification, or revocation existing at the time of this offense.
Reinstatement of driving privileges must be accomplished before you can drive. Apply to: Driver's Services, P. O. Box 7129, Boise, ID 83707-1129.

PROBATION: The Defendant shall be placed on ☒ supervised ☐ unsupervised probation for 18 months.
During the period of probation, all suspended penalties are subject to Defendant's compliance with all of the above orders and the following conditions. The Defendant shall:
☒ if on supervised probation, report to the Misdemeanor Probation Dept. within five days of this Order and comply with all rules and reporting requirements.
☒ not refuse evidentiary test for alcohol or drugs requested by a peace officer.
☒ keep Court informed in writing of Defendant's current mailing address and telephone number.
☒ not commit a felony or a misdemeanor. ☐ not violate conditions of No Contact Order.
☐ attend ☐ N.A. meetings for _____ weeks. ☐ A.A. meetings for _____ weeks and provide proof of completion to the Court by _____
☒ not consume alcohol and/or any other mood altering substance unless prescribed by a physician.
☒ not operate any motor vehicle upon a public roadway unless validly licensed and insured.
☒ not operate any motor vehicle after having consumed any quantity of alcohol. ☐ Interlock Device required
☐ perform _____ hours of community service for C.S.A. to be completed by _____ and pay all community service fees.
☒ within 100 days enroll in, and then promptly complete, Substance abuse counseling as recommended by probation officer.
☐ Payment schedule and/or terms and conditions of probation accepted.
☒ Defendant shall not possess weapons.

Dated: 10/20/09 Signed: [Signature], Judge Judge No. 108
Copies to: ☐ Defendant ☐ Defense Attorney ☒ Misd. Prob. ☐ Dispatch
☐ Jail ☐ PreTrial Release ☐ Dr. Serv. ☐ Sup. Ct. ☐ Com. Ser. ☐ Counseling

Corrected JUDGMENT * entered pursuant to ICR 36 to correct a clerical error in the case number set forth in the judgment caption.
Nunc Pro tunc to 10/06/09 BBT 10/07

Corrected

JUDGMENT *

STATE OF IDAHO VS.

BY McInnes, DEPUTYAracito C. Betancourt, IV
2183 Steven
Boise, Id 83706

D.L. #:

D.O.B.:

CASE #:

CHARGE:

AMENDED:

PROSECUTOR:

DEFENSE ATTORNEY:

INTERPRETER:

RECORDING:

AGENCY:

BOND:

The Defendant, having been fully advised of his/her statutory and constitutional rights, including the right to be represented by counsel,

- ☒ pleaded guilty. ☐ was found guilty. ☐ was found not guilty.
☐ State moved to dismiss this charge. ☐ Charge is dismissed. ☐ Infraction default entered.
☒ Conviction is entered. ☐ Judgment is withheld.

JUDGMENT:

- ☐ The bond is ☐ exonerated. ☐ forfeited and case closed. ☐ to be applied to the fine and costs.
☐ No Contact Order ☐ dismissed. ☐ imposed as a term of probation.

PAYMENTS: Defendant shall pay immediately, or as provided in payment agreement, as follows:

\$ 590.60, which includes fine and court costs. \$ _____, suspended. to be paid
 by 10/01/2010. Pay \$ _____ per _____ to begin _____
☐ Reimburse for atty or P.D. \$ _____ by _____ / \$ _____ per month.
☐ \$ _____ restitution to _____

Make payments payable to Canyon County Clerk, include case number, and send to Court Fine/Fees, 1115 Albany Street, Caldwell, ID 83605. Telephone: 454-7494 All installment payments are subject to a \$2.00 handling fee. Failure to pay your fine by the due date may result in your account being turned over to a collection agency.

JAIL: Defendant shall serve 150 days in jail with 145 days suspended and credit for 5 days served.
 _____ days to be served at the discretion of the probation officer.

- Defendant shall report to jail ☐ immediately ☐ on _____
☐ Work release / work search granted in all counties and Defendant shall report to jail immediately to make arrangements.
☐ Sheriff's Work Detail: _____ days in lieu of _____ days jail to be completed by _____ and Defendant shall report to jail immediately to make arrangements. If the Defendant fails to report to the jail as ordered or at a time agreed upon with the jail, or fails to satisfactorily perform the Defendant's obligations with the Sheriff Inmate Labor Detail, then the Sheriff is ordered and directed to place the Defendant in custody to serve the Defendant's jail time that has not been suspended.
 This jail sentence is ☐ concurrent ☒ consecutive with any jail sentence previously ordered.

DRIVING PRIVILEGES suspended for 180 (days) months beginning on _____

- ☒ the date of this Judgment. ☐ _____
☐ D.V.P.: The period of suspension shall commence following the end of any prior period of suspension, disqualification, or revocation existing at the time of this offense.
 Reinstatement of driving privileges must be accomplished before you can drive. Apply to: Driver's Services, P. O. Box 7129, Boise, ID 83707-1129.

PROBATION: The Defendant shall be placed on ☒ supervised ☐ unsupervised probation for 18 months. During the period of probation, all suspended penalties are subject to Defendant's compliance with all of the above orders and the following conditions. The Defendant shall:

- ☒ if on supervised probation, report to the Misdemeanor Probation Dept. within five days of this Order and comply with all rules and reporting requirements. No objection to supervision by felony supervisor
☒ not refuse evidentiary test for alcohol or drugs requested by a peace officer.
☒ keep Court informed in writing of Defendant's current mailing address and telephone number.
☒ not commit a felony or a misdemeanor. ☐ not violate conditions of No Contact Order.
☐ attend ☐ N.A. meetings for _____ weeks. ☐ A.A. meetings for _____ weeks and provide proof of completion to the Court by _____
☒ not consume alcohol and/or any other mood altering substance unless prescribed by a physician.
☒ not operate any motor vehicle upon a public roadway unless validly licensed and insured.
☒ not operate any motor vehicle after having consumed any quantity of alcohol. ☐ Interlock Device required
☐ perform _____ hours of community service for C.S.A. to be completed by _____ and pay all community service fees.
☒ within 100 days enroll in, and then promptly complete, Substance Abuse Counseling as required by Felony Probation Officer
☐ Payment schedule and/or terms and conditions of probation accepted.

dated: 10/20/09 Signed: _____, Judge Judge No. 108copies to: ☐ Defendant ☐ Defense Attorney ☒ Misd. Prob. ☐ Dispatch
☐ Jail ☐ PreTrial Release ☐ Dr. Serv. ☐ Sup. Ct. ☐ Com. Ser. ☐ Counseling

Corrected JUDGMENT * entered pursuant to ICR 36 to correct a clerical error in the case number set forth in the judgment caption. Done Pro tunc to 10/6/09. BSA

10/07

OCT 20 2009

CANYON COUNTY CLERK
S FENNELL, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,

Plaintiff,

-vs-

ANICETO BETANCOURT, IV.,
Aka: ANICETO C. BETANCOURT,
CHETO BETANCOURT,
CHET BETANCOURT,
TITO BETANCOURT,
TITUS BETANCOURT,
T. BETANCOURT,
TCHET BETANCOURT,
T, ANICETO,
TCHET ANICETO,

SSN: [REDACTED] or [REDACTED]
D.O.B: [REDACTED]

Defendant.

CASE NO. CR-2008-30874-C

**JUDGMENT AND COMMITMENT
AND ORDER OF PROBATION
ON SUSPENDED EXECUTION
OF JUDGMENT**

On this 6th day of October 2009, personally appeared Mr. Brad Knell, Special Deputy Prosecuting Attorney for Canyon County, Idaho, the defendant Aniceto Betancourt, IV, and the defendant's attorney William Schwartz.

IT IS ADJUDGED that the defendant has been convicted upon a finding of guilt by a jury to the offense of **Possession of a Controlled Substance**, a felony, as charged in count I of the Amended Information, a violation of Idaho Code Section 37-2732(c)(1), committed on or about the 29th day of September 2008.

The Court having asked whether the defendant had any legal cause why Judgment should not be pronounced against the defendant, and no sufficient cause to the contrary having been shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS FURTHER ADJUDGED that the defendant be sentenced to the custody of the Idaho State Board of Correction for a minimum period of confinement of three (3) years, followed by a subsequent indeterminate period of confinement not to exceed three (3) years, for a total unified term of six (6) years; with credit for four (4) days previously served, pursuant to Idaho Code Section 18-309. The defendant shall report to the Canyon County Jail the 18th day of December 2009 by 5:00 p.m., to serve sixty (60) additional days toward the above described sentence.

AND IT IS ORDERED that execution of this Judgment be suspended in compliance with Idaho Code 19-2601, Sub-Section 2, and that the defendant be placed on probation under the supervision and control of the Idaho State Department of Correction, Probation and Parole Division and this Court for a period of six (6) years, commencing the 6th day of October 2009, and under the following terms and conditions:

That the defendant shall: (a) violate no State, Federal, or Municipal penal laws; (b) not change residence without first obtaining written permission from the supervising officer; (c) submit a truthful written report to the supervising officer each and every month and report in person when requested; (d) not leave the State of Idaho or the Third Judicial District (Adams, Canyon, Gem, Payette, Owyhee, and Washington counties) without first obtaining written permission from the supervising officer; (e) seek and maintain employment or a program approved by the supervising officer, and not change employment or program without first obtaining written permission from the supervising officer; (f) waive defendant's constitutional right to be free from search and consent to the search of their person, residence, vehicle, or property at the request of a supervising officer and/or law enforcement; (g) not purchase or possess any firearms or weapons; (h) not possess any controlled substances without a valid prescription; (i) submit to tests for controlled substances and/or alcohol at probationer's own expense upon the request of the supervising officer; (j) follow the advice and instructions of the supervising officer; (k) execute a waiver of extradition.

SPECIAL CONDITIONS:

1. The defendant shall pay in the order listed each of the following sums as specified:
 - A. A fine in the sum of \$500.00, with \$500.00 suspended for the period of probation:
 - B. Court costs in the total sum of \$110.50:

C. Reimburse Canyon County for the cost of legal representation in the sum of \$350.00.

D. Restitution in the sum of \$300.00, pursuant to the Restitution Order (to be submitted by the State).

All of the previous stated amounts of money are due and payable to the District Court at a rate and schedule to be determined by the supervising officer.

2. Pay a monthly supervision fee as set by the supervising officer.

OTHER SPECIAL CONDITIONS:

1. The defendant shall enroll in and successfully complete all programs of rehabilitation recommended by his supervising officer including, but not limited to programs on substance abuse, anger management, vocational rehabilitation, mental health, and self-esteem counseling;
2. The defendant shall obtain another substance abuse assessment (if required by the supervising officer) pursuant to ICS 19-2524, and make full disclosure of history. The defendant shall follow the recommendations of said evaluation as required by the supervising officer.
3. The defendant shall obtain a mental health examination pursuant to ICS 19-2524, and follow the recommendations as required by the supervising officer.
4. The defendant shall serve three hundred sixty (360) days in the Canyon County Jail at the discretion of the supervising officer, with the Court's approval;
5. The defendant shall not purchase, possess or consume alcohol, nor enter into any establishment where the sale of alcohol is their primary source of revenue;
6. The defendant shall perform one hundred (100) hours community service to be completed at a time set by the supervising officer.
7. The defendant shall maintain full-time employment if not attending school, and reasonable employment if attending school.
8. The defendant shall possess no weapons.

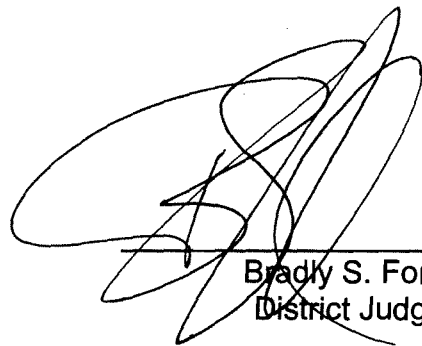
9. The defendant shall comply with the recommendations contained in the Presentence Investigation Report.

10. The Court has no objection to the defendant residing and/or attending school in Ada County.

11. The Court has no objection to transfer of supervision to the Fourth District.

The terms of the defendant's probation may be revoked, modified or extended at any time by the Court, and in the event of any violation of the conditions hereof, during the period of probation, the Court may revoke this Order and cause the sentence to be executed. Defendant is subject to arrest without a warrant for violation of any condition hereby imposed.

DATED this 20th day of October 2009.



Brady S. Ford
District Judge

I understand, accept and will abide by the terms and conditions of the attached Order.

DATED this ____ day of _____, 20__.

Defendant

WITNESSED: _____

P&P
D4

FILED 3:40 P.M.
RECEIVED
DISTRICT 4
NOV 13 2009
OCT 27 2009
CANYON COUNTY CLERK
B RAYNE, DEPUTY
PROBATION & PAROLE

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,

Plaintiff,

-vs-

ANICETO BETANCOURT, IV.,
Aka: ANICETO C. BETANCOURT,
CHETO BETANCOURT,
CHET BETANCOURT,
TITO BETANCOURT,
TITUS BETANCOURT,
T. BETANCOURT,
TCHET BETANCOURT,
T, ANICETO,
TCHET ANICETO,

SSN: [REDACTED] or [REDACTED]
D.O.B: [REDACTED]

93906

Defendant.

CASE NO. CR-2008-30874-C

**SUPPLEMENTAL
JUDGMENT AND COMMITMENT
AND ORDER OF PROBATION
ON SUSPENDED EXECUTION
OF JUDGMENT**

On this 6th day of October 2009, personally appeared Mr. Brad Knell, Special Deputy Prosecuting Attorney for Canyon County, Idaho, the defendant Aniceto Betancourt, IV, and the defendant's attorney William Schwartz.

IT IS ADJUDGED that the defendant has been convicted upon a finding of guilt by a jury to the offense of **Possession of a Controlled Substance**, a felony, as charged in count I of the Amended Information, a violation of Idaho Code Section 37-2732(c)(1), committed on or about the 29th day of September 2008.

The Court having asked whether the defendant had any legal cause why Judgment should not be pronounced against the defendant, and no sufficient cause to the contrary having been shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS FURTHER ADJUDGED that the defendant be sentenced to the custody of the Idaho State Board of Correction for a minimum period of confinement of three (3) years, followed by a subsequent indeterminate period of confinement not to exceed three (3) years, for a total unified term of six (6) years; with credit for four (4) days previously served, pursuant to Idaho Code Section 18-309. The defendant shall report to the Canyon County Jail the 18th day of December 2009 by 5:00 p.m., to serve sixty (60) additional days toward the above described sentence.

AND IT IS ORDERED that execution of this Judgment be suspended in compliance with Idaho Code 19-2601, Sub-Section 2, and that the defendant be placed on probation under the supervision and control of the Idaho State Department of Correction, Probation and Parole Division and this Court for a period of six (6) years, commencing the 6th day of October 2009, and under the following terms and conditions:

That the defendant shall: (a) violate no State, Federal, or Municipal penal laws; (b) not change residence without first obtaining written permission from the supervising officer; (c) submit a truthful written report to the supervising officer each and every month and report in person when requested; (d) not leave the State of Idaho or the Third Judicial District (Adams, Canyon, Gem, Payette, Owyhee, and Washington counties) without first obtaining written permission from the supervising officer; (e) seek and maintain employment or a program approved by the supervising officer, and not change employment or program without first obtaining written permission from the supervising officer; (f) waive defendant's constitutional right to be free from search and consent to the search of their person, residence, vehicle, or property at the request of a supervising officer and/or law enforcement; (g) not purchase or possess any firearms or weapons; (h) not possess any controlled substances without a valid prescription; (i) submit to tests for controlled substances and/or alcohol at probationer's own expense upon the request of the supervising officer; (j) follow the advice and instructions of the supervising officer; (k) execute a waiver of extradition.

SPECIAL CONDITIONS:

- AB 1. The defendant shall pay in the order listed each of the following sums as specified:
- AB A. A fine in the sum of \$500.00, with \$500.00 suspended for the period of probation:
- AB B. Court costs in the total sum of \$110.50:

AB

C. Reimburse Canyon County for the cost of legal representation in the sum of \$350.00.

AB

D. Restitution in the sum of \$300.00, pursuant to the Restitution Order (to be submitted by the State).

All of the previous stated amounts of money are due and payable to the District Court at a rate and schedule to be determined by the supervising officer.

AB

2. Pay a monthly supervision fee as set by the supervising officer.

OTHER SPECIAL CONDITIONS:

AB

1. The defendant shall enroll in and successfully complete all programs of rehabilitation recommended by his supervising officer including, but not limited to programs on substance abuse, anger management, vocational rehabilitation, mental health, and self-esteem counseling;

AB

2. The defendant shall obtain another substance abuse assessment (if required by the supervising officer) pursuant to ICS 19-2524, and make full disclosure of history. The defendant shall follow the recommendations of said evaluation as required by the supervising officer.

AB

3. The defendant shall obtain a mental health examination pursuant to ICS 19-2524, and follow the recommendations as required by the supervising officer.

AB

4. The defendant shall serve three hundred sixty (360) days in the Canyon County Jail at the discretion of the supervising officer, with the Court's approval;

AB

5. The defendant shall not purchase, possess or consume alcohol, nor enter into any establishment where the sale of alcohol is their primary source of revenue;

AB

6. The defendant shall perform one hundred (100) hours community service to be completed at a time set by the supervising officer.

AB

7. The defendant shall maintain full-time employment if not attending school, and reasonable employment if attending school.

AB

8. The defendant shall possess no weapons.

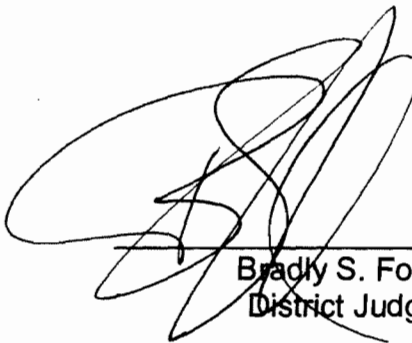
AB 9. The defendant shall comply with the recommendations contained in the Presentence Investigation Report.

AB 10. The Court has no objection to the defendant residing and/or attending school in Ada County.

11. The Court has no objection to transfer of supervision to the Fourth District.

The terms of the defendant's probation may be revoked, modified or extended at any time by the Court, and in the event of any violation of the conditions hereof, during the period of probation, the Court may revoke this Order and cause the sentence to be executed. Defendant is subject to arrest without a warrant for violation of any condition hereby imposed.

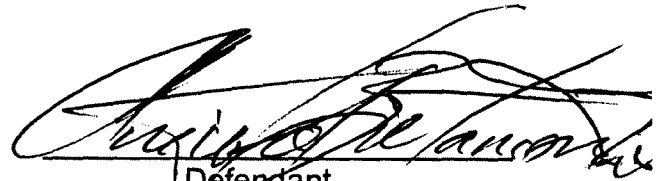
DATED this 20th day of October 2009.



Brady S. Ford
District Judge

I understand, accept and will abide by the terms and conditions of the attached Order.

DATED this 6th day of November, 2007.


Defendant

WITNESSED: _____

F I L 11/18 D
A.M. P.M.

Pro-se/Indigent/31-3220

NOV 17 2009

Aniceto Betancourt IV IDOC # 93906

CANYON COUNTY CLERK
V TRUJILLO, DEPUTY

2183 stephen ave. #102 Boise, ID.

83706

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,

Plaintiff,

case no. Cr-2008-30874-C

NOTICE OF APPEAL ;

-vs-

ANICETO BETANCOURT

Defendant.

Comes now Defendant exercising his legal right of appeal and gives this court NOTICE OF APPEAL, and gives intent of notice of intent to appeal, and does so based on the following:

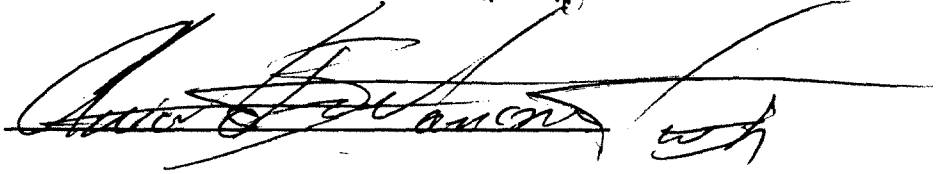
1. It is Defendant's legal right to appeal, and there were several procedural errors that occurred in this case
2. Evidence was contaminated in this case; Idaho State Police admitted to contaminating evidence at trial.

000151

3. The Defendant was on pain medication, in pain from back injury and broken foot injury throughout these entire proceedings and the victim of coercion ; this can be supported by medical records.
4. The court failed to give proper jury instructions to the jury regarding affirmative defenses that already existed in the state's case in chief.
5. Prosecutor Brad Knell Maliciously prosecuted this case, threatened and intimidated witnesses William Howard, Eugene Betancourt, Alfonso Hernandez and Zach Yniguez to prevent Exculpatory Testimony.
6. An Illegal stipulation was entered into in this case under false pretenses without the defendant actually understanding what was really going on; Brad Knell lied to the Defense and to the court regarding the stipulation which he used to cover up exculpatory evidence.
7. The state lied about the testing procedures of evidence and their accuracy and some of the tests didn't even really occur or exist.
8. Aniceto Betancourt should have never been prosecuted because of his rights under ID code 19-202 (A).
9. Defendant's Rights under Title II of the ADA and 14th Amendment of the US constitution were violated; Also his rights under the 1st, 2nd, 4th, 5th, 6th, 7th, 8th, 14th Amendments under the US constitution were also violated. His rights under Idaho constitutional Articles 5-1, 1-22, 1-7, 1-9, 1-17, 1-13, 1-11, 1-9, 1-22, 1-8, and 5-25 were also violated.
10. Discovery was never completed; Several exculpatory facts and pieces of evidence were not disclosed by Prosecution, but were purposely hidden and concealed.
11. These entire charges were an act of retaliation by the state.
12. Conflicts of interest violations existed that were never reported; Ada county prosecutors had previously been sued by Aniceto Betancourt, Aniceto Betancourt had filed a complaint against Judge Ford in the judicial council and he knew this. Judge Goff had already in the past removed himself from CR2006-8064 Homicide case that was brought against Aniceto Betancourt due to conflict of interest. The sentence in this case was extremely and overly excessive; Judge Ford singled out the Defendant and punished the defendant because he was acquitted in CR2006-8064 of Manslaughter and he expressed this at sentencing on record. The sentence discriminates against Aniceto Betancourt because of who he is and his Disability.
13. Concurrence never existed in this case; A felony charge and conviction requires that elements of Mens Rea and Actus Reus exist. Idaho code doesn't even have a element of mens rea and neither did the complaint. The Idaho code for possession and the complaint in this case are over breadth. The complaint and the wording fail to properly allege the crime. The defendant's compulsory process rights and his right to

know the charges against him were violated and all three of the charges were illegally consolidated to begin with.

Aniceto Betancourt

A handwritten signature in dark ink, appearing to read 'Aniceto Betancourt', written over a horizontal line.

11/17/09

Pro-se/Indigent/31-3220

Aniceto Betancourt IV IDOC # 93906

2183 stephen ave. #102 Boise, ID.

83706

NOV 17 2009

**CANYON COUNTY CLERK
V TRUJILLO, DEPUTY**

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

STATE OF IDAHO,

Plaintiff,

case no. Cr-2008-30874-C

**MOTION TO WITHDRAW PLEA OF
GUILTY TO CONCEALED WEAPONS
CHARGE AND DUI OR DRIVING
WHILE INTOXICATED;**

-VS-

ANICETO BETANCOURT

Defendant.

**Comes now Defendant exercising his legal right and moves this
court to grant a motion to withdraw his plea based on the following:**

- 1. It is Defendant's legal right to appeal, and there were several procedural errors that occurred in this case**
- 2. Evidence was contaminated in this case; Idaho State Police admitted to contaminating evidence at trial.**

3. The Defendant was on pain medication, in pain from back injury and broken foot injury throughout these entire proceedings and the victim of coercion ; this can be supported by medical records.
4. The court failed to give proper jury instructions to the jury regarding affirmative defenses that already existed in the state's case in chief.
5. Prosecutor Brad Kneil Maliciously prosecuted this case, threatened and intimidated witnesses William Howard, Eugene Betancourt, Alfonso Hernandez and Zach Yniguez to prevent Exculpatory Testimony.
6. An Illegal stipulation was entered into in this case under false pretenses without the defendant actually understanding what was really going on; Brad Kneil lied to the Defense and to the court regarding the stipulation which he used to cover up exculpatory evidence.
7. The state lied about the testing procedures of evidence and their accuracy and some of the tests didn't even really occur or exist.
8. Aniceto Betancourt should have never been prosecuted because of his rights under ID code 19-202 (A).
9. Defendant's Rights under Title II of the ADA and 14th Amendment of the US constitution were violated; Also his rights under the 1st, 2nd, 4th, 5th, 6th, 7th, 8th, 14th Amendments under the US constitution were also violated. His rights under Idaho constitutional Articles 5-1,1-22,1-7,1-9,1-17,1-13,1-11,1-9,1-22,1-8, and 5-25 were also violated.
10. Discovery was never completed; Several exculpatory facts and pieces of evidence were not disclosed by Prosecution, but were purposely hidden and concealed.
11. These entire charges were an act of retaliation by the state.
12. Conflicts of Interest violations existed that were never reported; Ada county prosecutors had previously been sued by Aniceto Betancourt, Aniceto Betancourt had filed a complaint against judge ford in the judicial council and he knew this. Judge Goff had already in the past removed himself from CR2006-8064 Homicide case that was brought against Aniceto Betancourt due to conflict of interest. The sentence in this case was extremely and overly excessive; Judge Ford singled out the Defendant and punished the defendant because he was acquitted in CR2006-8064 of Manslaughter and he expressed this at sentencing on record. The sentence discriminates against Aniceto Betancourt because of who he is and his Disability.
13. Concurrence never existed in this case; A felony charge and conviction requires that elements of Mens Rea and Actus Reus exist. Idaho code doesn't even have a element of mens rea and neither did the complaint. The Idaho code for possession and the complaint in this case are over breadth. The complaint and the wording fail to properly alledge the crime. The defendants compulsory process rights and his right to

know the charges against him were violated and all three of the charges were illegally consolidated to begin with.

Handwritten signature: [Signature] #6
11/17/09

NOV 17 2009

**CANYON COUNTY CLERK
V TRUJILLO, DEPUTY**

Pro-se/Indigent/31-3220

Aniceto Betancourt IV IDOC # 93906

2183 stephen ave. #102 Boise, ID.

83706

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

STATE OF IDAHO,

Plaintiff,

case no. Cr-2008-30874-C

MOTION TO VACATE CONVICTION;

-VS-

ANICETO BETANCOURT

Defendant.

**Comes now Defendant exercising his legal right and moves this
court to grant a motion to vacate his conviction based on the following:**

- 1. It is Defendant's legal right to appeal, and there were several procedural errors that occurred in this case**
- 2. Evidence was contaminated in this case; Idaho State Police admitted to contaminating evidence at trial.**
- 3. The Defendant was on pain medication, in pain from back injury and broken foot injury throughout these entire proceedings and the victim of coercion ; this can be supported by medical records.**

4. The court failed to give proper jury instructions to the jury regarding affirmative defenses that already existed in the state's case in chief.
5. Prosecutor Brad Knell Maliciously prosecuted this case, threatened and intimidated witnesses William Howard, Eugene Betancourt, Alfonso Hernandez and Zach Yniguez to prevent Exculpatory Testimony.
6. An Illegal stipulation was entered into in this case under false pretenses without the defendant actually understanding what was really going on; Brad Knell lied to the Defense and to the court regarding the stipulation which he used to cover up exculpatory evidence.
7. The state lied about the testing procedures of evidence and their accuracy and some of the tests didn't even really occur or exist.
8. Aniceto Betancourt should have never been prosecuted because of his rights under ID code 19-202 (A).
9. Defendant's Rights under Title II of the ADA and 14th Amendment of the US constitution were violated; Also his rights under the 1st, 2nd, 4th, 5th, 6th, 7th, 8th, 14th Amendments under the US constitution were also violated. His rights under Idaho constitutional Articles 5-1,1-22,1-7,1-9,1-17,1-13,1-11,1-9,1-22,1-8, and 5-25 were also violated.
10. Discovery was never completed; Several exculpatory facts and pieces of evidence were not disclosed by Prosecution, but were purposely hidden and concealed.
11. These entire charges were an act of retaliation by the state.
12. Conflicts of Interest violations existed that were never reported; Ada county prosecutors had previously been sued by Aniceto Betancourt, Aniceto Betancourt had filed a complaint against judge ford in the judicial council and he knew this. Judge Goff had already in the past removed himself from CR2006-8064 Homicide case that was brought against Aniceto Betancourt due to conflict of interest. The sentence in this case was extremely and overly excessive; Judge Ford singled out the Defendant and punished the defendant because he was acquitted in CR2006-8064 of Manslaughter and he expressed this at sentencing on record. The sentence discriminates against Aniceto Betancourt because of who he is and his Disability.
13. Concurrence never existed in this case; A felony charge and conviction requires that elements of Mens Rea and Actus Reus exist. Idaho code doesn't even have a element of mens rea and neither did the complaint. The Idaho code for possession and the complaint in this case are over breadth. The complaint and the wording fail to properly alledge the crime. The defendants compulsory process rights and his right to know the charges against him were violated and all three of the charges were illegally consolidated to begin with.

Ref. [unclear] 11/17/09

In the Supreme Court of the State of Idaho

FILED
1201 A.M. E D P.M.

NOV 25 2009

CANYON COUNTY CLERK
J HEIDEMAN, DEPUTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

ANICETO BETANCOURT, IV,

Defendant-Appellant.

ORDER SUSPENDING APPEAL

Supreme Court Docket No. 37139-2009

Canyon County Docket No. 2008-30874

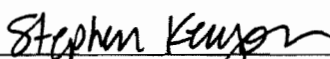
The Notice of Appeal filed in District Court November 17, 2009 was not in the proper form as required by I.A.R. 17(o). Therefore, good cause appearing,

IT HEREBY IS ORDERED that the NOTICE OF APPEAL be, and hereby is, SUSPENDED for the reason it was not in the proper form; however, Appellant counsel shall file a NOTICE OF APPEAL in the proper form with the District Court Clerk within fourteen (14) days from the date of this Order.

IT FURTHER IS ORDERED that this appeal is SUSPENDED until further notice.

DATED this 23 day of November 2009.

For the Supreme Court


Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk

000160

12247416
ORIGINAL

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
William Schwartz, ISB No. 3649
510 Arthur Street
Caldwell, ID 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611

F I L E D
A.M. 2:57 P.M.

NOV 25 2009

CANYON COUNTY CLERK
B RAYNE, DEPUTY

Attorneys for the Defendant

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

STATE OF IDAHO,
Plaintiff-Respondent,

Vs.

ANICETO BETANCOURT, IV.,
Defendant-Appellant.

Case No. CR-2008-30874-C

NOTICE OF APPEAL

TO: THE ABOVE NAMED RESPONDANT, THE STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, GREG H. BOWER, ADA COUNTY PROSECUTING ATTORNEY, SPECIAL PROSECUTOR FOR CANYON COUNTY, 200 W. FRONT STREET, ROOM 3191, BOISE, IDAHO, 83702, AND CLERK OF THE ABOVE ENTITLED COURT:

NOTICE IS HEREEBY GIVEN THAT:

1. The above-named defendant-appellant appeals against the above named plaintiff-respondent, to the Idaho Supreme Court, from the Judgment and Commitment and Order of Probation on Suspended Execution of Judgment entered against him on the above-entitled action 20th day of October 2009, the Honorable Bradley S. Ford, presiding.

2. The defendant-appellant has the right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of issues on appeal which appellant intends to assert in the appeal, provided, however, that any such list of issues on appeal shall not prevent defendant-appellant from asserting other issues on appeal, is/are:

a. Did the district court abuse its discretion by allowing improper and misleading evidence to be considered by the jury?

4. There have been no orders entered which seal any portion of the record.

5. The defendant-appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(c). The defendant-appellant also requests the preparation of the additional portions of the reporter's transcript:

a. Pre-Trial Conference held June 1, 2009. (Court Reporter: Yvonne Hyde Gier, estimation of pages less the 100);

b. Motion in Limine Hearing held June 8, 2009. (Court Reporter: Yvonne Hyde Gier, estimation of pages less the 100);

b. Jury trial held July 9-10, 2009 to include voir dire, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions from the jury deliberations, return of the verdict, and any polling of the jurors (Court Reporter: Denece Graham, estimation more than 100 pages);

c. Sentencing Hearing held October 6, 2009. (Court Reporter: Yvonne Hyde Gier, estimation of pages less than 100).

6. The defendant-appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

a. All proposed and given jury instruction including, but not limited to, the State's Proposed Jury Instructions filed June 30, 2009, and the jury instruction used on July 10, 2009.

b. Any exhibits, including but not limited to letters or victim impact statements and other addendums to the Pre-Sentence Investigation or any other items offered at Sentencing Hearing.

7. I hereby certify:


a. That a copy of this Notice of Appeal has been served on the Court Reporter, Denece Graham;

b. That the defendant-appellant is exempt from paying the estimated fee for the preparation of the record because the defendant-appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R 24(e));

c. That the defendant-appellant is exempt from paying the estimated fee for transcripts because he is indigent and unable to pay the fee;

d. That there is no appellate filing fee since this is an appeal in a criminal case (I.A.R. 23(a)(8)); That service has been made upon all parties required pursuant to I.A.R. 20.

DATED this 18th day November, 2009.



William Schwartz
Canyon County Public Defender

CERTIFICATE OF SERVICE

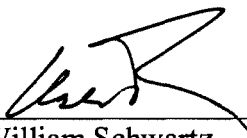
I hereby certify that on the ____ day of November, 2009, a true and correct copy of the above and foregoing Notice of Appeal was mailed by United State Mail, postage prepaid, and properly addressed to:

Greg H. Bower
Ada County Prosecuting Attorney
Special Prosecutor For Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702

Denece Graham, Court Reporter
Washington County Courthouse
P.O. Box 670
Weiser, ID 83671

Attorney General
Criminal Division
P.O. Box 83720
Boise, ID 83720-0010

Aniceto Betancourt, IV.
1162 Lee Street
Boise, ID 83702



William Schwartz

ORIGINAL

FILED
A.M. P.M.

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
William Schwartz, ISB No. 3649
510 Arthur Street
Caldwell, ID 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611

DEC 03 2009
CANYON COUNTY CLERK
M BUSH, DEPUTY

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

STATE OF IDAHO,
Plaintiff,

vs.

ANICETO BETANCOURT, IV.,
Defendant.

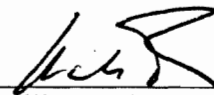
Case No. CR 2008-30874-C

MOTION TO AMEND JUDGEMENT

COMES NOW, ANICETO C. BETANCOURT, IV., , by and through the his attorney, William Schwartz, Assistant Canyon County Public Defender, and hereby moves this Honorable Court to Amend the Judgment sentenced in the above referred case to include that Work Release also allow for the above named defendant to attend classes at Boise State University for the 2010 Spring Semester.

NOTICE OF HEARING: PLEASE TAKE NOTICE that the attorney for the defendant will bring on for hearing the above Motion on the 11th day of December, 2009, at the hour of 1:30p.m., before the Honorable Bradley S. Ford, at the Canyon County Courthouse, 1115 Albany, Caldwell Idaho.

Dated this 25 day of November, 2009



William Schwartz
Attorney for the Defendant

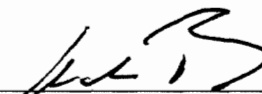
CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of November, 2009, I served a true and correct copy of the within Motion To Amend Sentence upon the individual(s) names below in the manner noted:

☒ By depositing copies of the same in the United States Mail, postage prepaid, first class.

Greg H. Bower
Ada County Prosecuting Attorney
Special Prosecutor For Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702

Aniceto Betancourt, IV.
1162 Lee Steet
Boise, Idaho 83702



William Schwartz
Attorney for the Defendant



ORIGINAL

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
 William Schwartz, ISB No. 3649
 510 Arthur Street
 Caldwell, ID 83605
 Telephone: (208) 639-4610
 Facsimile: (208) 639-4611

F I L E D
 A.M. P.M.

DEC 03 2009

CANYON COUNTY CLERK
B RAYNE, DEPUTY

Attorneys for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR 2008-30874-C
vs.)	
	)	MOTION TO FURLOUGH
ANICETO BETANCOURT, IV.,	)	DEFENDANT FROM CUSTODY
)	
Defendant.)	
)	

COMES NOW, the Defendant, ANICETO BETANCOURT, IV., by and through his attorney of record, William Schwartz, Assistant Canyon County Public Defender and hereby moves the Honorable Court to allow the above named defendant to be furloughed from jail on Christmas Day, December 25, 2009, from 8:00am to 8:00 pm so that he may attend services and the holiday with his family.

NOTICE OF HEARING: PLEASE TAKE NOTICE that the attorney for the defendant will bring on for hearing the above Motion on the 11th day of December, 2009, at the hour of 1:30p.m., before the Honorable Bradley S. Ford, at the Canyon County Courthouse, 1115 Albany, Caldwell Idaho.

Dated this 25 day of November, 2009.

William Schwartz
 Canyon County Public Defender

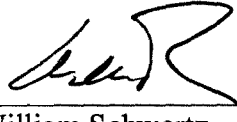
CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of November, 2009, I served a true and correct copy of the within Motion To Furlough Defendant From Custody upon the individual(s) names below in the manner noted:

- ☒ By depositing copies of the same in the United States Mail, postage prepaid, first class.
- ☐ By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: (208) 454-7474.

Greg H. Bower
Ada County Prosecuting Attorney
Special Prosecutor For Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702

Aniceto Betancourt, IV.
1162 Lee Steet
Boise, Idaho 83702



William Schwartz
Attorney for the Defendant

Canyon County
Court House



ORIGINAL

F O L I E D D
P.M.

DEC 03 2009

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
William Schwartz, ISB No. 3649
510 Arthur Street
Caldwell, ID 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611

CANYON COUNTY CLERK
M BUSH, DEPUTY

Attorneys for the Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,)	
	)	CASE NO. CR 2008-30874
Plaintiff-Respondent,)	
)	
v.	)	MOTION FOR APPOINTMENT
	)	OF STATE APPELLATE PUBLIC
ANICETO C. BETANCOURT, IV.,	)	DEFENDER
)	
Defendant-Appellant.)	
)	

COMES NOW, ANICETO C. BETANCOURT, IV., , by and through the his attorney,
William Schwartz, Assistant Canyon County Public Defender, and hereby moves this Court for
its order, pursuant to Idaho Code § 19-867, appointing the State Appellate Public Defender's
Office to represent the appellant in all further appellate proceedings and allowing current counsel
for the defendant to withdraw as counsel of record. This motion is brought on the grounds and
for the reasons that the appellant is currently represented by the Canyon County Public Defender;
the State Appellate Public Defender is authorized by statute to represent defendant in all felony
appellate proceedings; and it is in the interest of justice, for them to do so in this case since the
defendant is indigent, and any further proceedings on this case will be an appellate case.

DATED this day of 25 November, 2009.



William Schwartz
Canyon County Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of November, 2009, a true and correct copy of the above and foregoing Notice of Appeal was mailed by United State Mail, postage prepaid, and properly addressed to:

Greg H. Bower
Ada County Prosecuting Attorney
Special Prosecutor For Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702

Aniceto Betancourt, IV.
1162 Lee Street
Boise, ID 83702

State Appellate Public Defender
3380 Americana Terrace, Suite 360
Boise, ID 83706



William Schwartz
Canyon County Public Defender

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
PRESIDING: **BRADLY S. FORD** DATE: DECEMBER 11, 2009

THE STATE OF IDAHO,)	COURT MINUTES
)	
Plaintiff,)	CASE NO: CR-2008-30874-C
)	
vs.)	TIME: 1:30 P.M.
)	
ANICETO C. BETANCOURT, IV,)	REPORTED BY: Yvonne Hyde-Gier
)	
Defendant.)	DCRT 5 (139-232)
)	

This having been the time heretofore set for **numerous motions** in the above entitled matter, the State was represented by Mr. Weston Meyring, Special Deputy Prosecuting Attorney for Canyon County, and the defendant was present in court with counsel, Mr. William Schwartz.

The Court reviewed the file, prior proceedings, and noted the sentence entered in this matter.

The Court noted the defendant filed a *pro se* Notice of Appeal, *pro se* Motion to Withdraw Guilty Plea (misdemeanors), and a *pro se* Motion to Vacate Conviction (felony).

The Court further noted upon receipt of the *pro se* motions they were forwarded to the public defender's office.

The Court granted the public defender's Motion to Appoint the State Public Defender in regard to the appeal only, and signed an order to the same.

The Court expressed opinions in regard to the *pro se* motions filed as not being sufficiently supported by evidence, or case law.

Mr. Schwartz indicated the *pro se* Motion to Vacate Conviction, more accurately was a Rule 29 Motion for Judgment Not Withstanding the Verdict (JNOV). Mr. Schwartz further indicated most of the issues set forth in that motion would best be handled in the appeal proceedings.

Mr. Schwartz argued there was not sufficient evidence for a conviction, and moved to amend via interlineation the title to reflect ICR 29(c) Judgment Not Withstanding the Verdict (JNOV).

Mr. Meyring objected to the entire motion as untimely.

Mr. Schwartz suggested the Court had discretion to extend the date and requested the same. In answer to the Court's inquiry, Mr. Schwartz indicated he had no authority to back his request.

Mr. Meyring made additional argument against the motion and in regard to timeliness.

It was determined per the rule, that the motion must be filed within fourteen (14) days, and a request for extension must be filed within those fourteen (14) days. All parties concurred.

The Court denied the defendant's Motion to Vacate Conviction (felony).

Mr. Schwartz noted defendant's *pro se* Motion to Withdraw Guilty Plea (misdemeanors) was pursuant to ICR 33 (c), and would submit on the pleadings.

Mr. Meryring objected to the motion and presented argument to the same.

Mr. Schwartz noted he possessed some medical records for the defendant, but didn't feel they were appropriate to submit, or that it amounted to manifest injustice.

The Court denied the defendant's Motion to Withdraw Guilty Plea (misdemeanors).

The Court noted the *pro se* motions were not sufficiently supported by evidence. The Court further noted Findings of Fact and Conclusions of Law as stated on the record, were its order.

The Court addressed the defendant's complaint about itself to the Judicial Counsel, and noted a letter stating "no wrong doing" was received. The Court further noted for the record the complaint was not taken into account when sentencing the defendant.

The Court noted defendant's Motion for School Release and Motion for Furlough (Christmas day).

Mr. Schwartz presented argument in regard to the motions.

Mr. Meyring submitted to the Court in regard to the Motion for School Release.

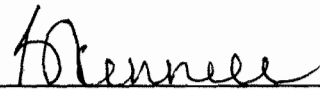
The Court instructed the defendant to submit a detailed school schedule, and took the motion under advisement.

The Court set this matter for **review hearing the 17th day of December 2009 at 8:30 a.m.**, to address school release.

Mr. Schwartz presented statements in regard to the Motion for Furlough.

Mr. Meyring presented argument against the motion.

The Court denied defendant's Motion for Furlough (Christmas Day).



Deputy Clerk

ORIGINAL

FILED
A.M. P.M.

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
William Schwartz, ISB No. 3649
510 Arthur Street
Caldwell, ID 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611

DEC 11 2009

CANYON COUNTY CLERK
S FENNELL, DEPUTY

Attorneys for the Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

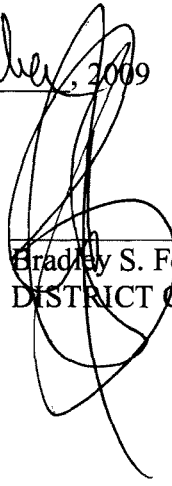
STATE OF IDAHO,)	
	)	CASE NO. CR 2008-30874
Plaintiff-Respondent,)	
)	
v.	)	ORDER FOR APPOINTMENT
	)	OF STATE APPELLATE PUBLIC
ANICETO C. BETANCOURT, IV.,	)	DEFENDER
)	
Defendant-Appellant.)	
)	

THIS MATTER having come before the Court pursuant to Defendant-Appellant's Motion for Appointment of State Appellate Public Defender, the Court having reviewed the pleadings on file and the motion; the Court being fully apprised in the matter and good cause appearing;

IT IS HEREBY ORDERED that the Canyon County Public Defender, is withdrawn as counsel of record for the Defendant-Appellant and the State Appellate Public Defender is hereby appointed to represent the Defendant-Appellant, ANICETO C. BETANCOURT, IV., in the above entitled matters for appellate purposes.

The appointment of the State Appellate Public Defender is for purposes of the appeal only.

DATED this 11 day of December, 2009



Bradley S. Ford
DISTRICT COURT JUDGE

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the 11 day of ^{December}~~November~~, 2009, I served a true and correct copy of the foregoing upon the individual(s) named below in the manner noted:

- ☒ By depositing copies in the United States Mail, postage prepaid, first class.
- ☐ By depositing copies in the Interdepartmental Mail basket.
- ☐ By hand delivering copies to the office(s) of the attorney(s) indicated below.

Greg H. Bower
Ada County Prosecuting Attorney
Special Prosecutor For Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702

- ☐ By depositing copies in the United States Mail, postage prepaid, first class.
- ☒ By depositing copies in the Interdepartmental Mail basket.
- ☐ By hand delivering copies to the office(s) of the attorney(s) indicated below.
- ☐ By faxing copies to said attorney's at the facsimile number: (208) 639-4611

Canyon County Public Defender
510 Arthur Street
Caldwell, ID 83605

- ☒ By depositing copies in the United States Mail, postage prepaid, first class

Aniceto Betancourt, IV.
1162 Lee Street
Boise, ID 83702

State Appellate Public Defender
3380 Americana Terrace, Suite 360
Boise, ID 83706

WILLIAM H. HURST
Clerk of the Court

By: 
Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
PRESIDING: **BRADLY S. FORD** DATE: DECEMBER 17, 2009

THE STATE OF IDAHO,)	COURT MINUTES
)	
Plaintiff,)	CASE NO: CR-2008-30874-C
)	
vs.)	TIME: 8:30 A.M.
)	
ANICETO C. BETANCOURT, IV,)	REPORTED BY: Yvonne Hyde-Gier
)	
Defendant.)	DCRT 5 (849-903)
)	

This having been the time heretofore set for **defendant's motion for release to attend school while incarcerated** in the above entitled matter, the State was represented by Mr. Weston Meyring, Special Deputy Prosecuting Attorney for Canyon County, and the defendant was present in court with counsel, Mr. Lance Fuisting.

Mr. Fuisting submitted a school schedule to the Court for review.

The Court noted certain classes overlapped and there was no indication as to when the semester commenced.

The defendant was unable to provide a specific date as to when the semester commenced.


The Court noted it would not consider the defendant's request until all pertinent information was received. Once received, the Court would allow the defendant's

release one (1) hour prior to class commencement and return one (1) hour after completion.

The Court instructed Mr. Fuisting to prepare a detailed order stating commencement of the semester, and each classes date, start and end time. The Court noted it would review the order when received.

The Court reminded the defendant he was to report to the Canyon County Jail the 18th day of December 2009 by 5:00 p.m., to serve sixty (60) days. Further, if the release order was not received, or not detailed as specified by the Court, the defendant would serve the sixty (60) days straight.

The defendant indicated he understood.


Deputy Clerk

pro-se / Indigent / ^{T.D. Court} - 3220

Aniceto Betancourt
#74273

DEC 29 2009

CANYON COUNTY CLERK
B RAYNE, DEPUTY

IN THE DISTRICT COURT
OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE
COUNTY OF CANYON

CR2008-30874-C
Judge Ford

~~STATE OF IDAHO~~

VS.

Plaintiff,

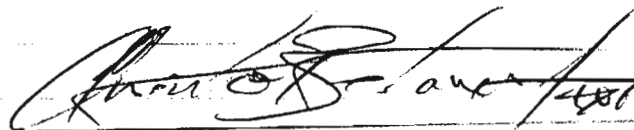
Aniceto Betancourt ~~vs~~
Defendant.

Motion for
Transport;

Comes now Defendant and requests

that a transport order be granted based
on the following grounds:

- ① Aniceto Betancourt is scheduled for court
on Jan 3rd and Jan 9th at the Social Security
Administration in front of a Judge at
1:00 in Boise, Idaho.
- ② Aniceto Betancourt should Not Fail to
Appear simply because he is incarcerated.
- ③ It is the responsibility of Canyon County to
transport its inmates to court, or to set up
transportation when an inmate is scheduled
for court somewhere else.



Aniceto Betancourt ~~vs~~
#74273 CC00
219 N 12th ave.
Caldwell, ID. 83605.

12/30/09
3x PT
PO
State PP

000180

FILED
1/23 A.M. P.M.

MOLLY J. HUSKEY
State Appellate Public Defender
State of Idaho
I.S.B. # 4843

JAN 26 2010

CANYON COUNTY CLERK
M PUGA, DEPUTY

SARA B. THOMAS
Chief, Appellate Unit
I.S.B. # 5867
3647 Lake Harbor Lane
Boise, Idaho 83703
(208) 334-2712

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR CANYON COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

ANICETO BETANCOURT, IV,

Defendant-Appellant.

CASE NO. CR 2008-30874

S.C. DOCKET NO. 37139

AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE
PARTY'S ATTORNEYS, JOHN T. BUJAK, CANYON COUNTY PROSECUTOR,
1115 ALBANY, CALDWELL, IDAHO, 83605, AND THE CLERK OF THE
ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the entered in the above-entitled action on the 20th day of October, 2009, the Honorable Bradley S. Ford, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

- (a) Did the district court abuse its discretion by allowing improper and misleading evidence to be considered by the jury?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Pretrial Conference held January 5, 2009 (Court Reporter: Kathy Klemetson. Estimation of pages less than 100);
- (b) Pretrial Conference held on June 1, Pretrial Conference held on June 1, 2009 (Court Reporter: Yvonne Hyde-Gier, estimation of less than 100 pages);
- (c) Motion in Limini Hearing held on June 8, 2009 (Court Reporter: Yvonne Hyde-Gier, estimation of less than 100 pages);
- (d) Status Conference held July 8, 2009 (Court Reporter: Yvonne Hyde-Gier. Estimation of pages less than 100);
- (e) Jury Trial held July 9-10, 2009, to include the voir dire, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions

from the jury during deliberations, return of the verdict, and any polling of the jurors (Court Reporter: Denese Graham. Estimation of more than 100 pages);

- (f) Sentencing Hearing held on August 31, 2009 (Court Reporter: Yvonne Hyde-Gier, estimation of less than 100 pages);
- (g) Sentencing Hearing held on October 6, 2009 (Court Reporter: Yvonne Hyde-Gier, estimation of less than 100 pages);
- (h) Motion Hearing held on December 11, 2009 (Court Reporter: Yvonne Hyde-Gier, estimation of less than 100 pages); and
- (i) Motion Hearing held on December 17, 2009 (Court Reporter: Yvonne Hyde-Gier, estimation of less than 100 pages).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

- (a) Transcript of Preliminary Hearing filed December 5, 2008;
- (b) Pretrial Memorandum filed June 1, 2009;
- (c) All proposed and given Jury Instructions including, but not limited with, the State's Proposed Jury Instructions filed June 30, 2009, and Miscellaneous Jury Instructions filed July 10, 2009;
- (d) Miscellaneous – Jury Question filed July 10, 2009;
- (e) Letters/Motions from Defendant filed July 23, 2009;

- (f) Defendant's Medication Record from St. Luke's filed November 19, 2009, and December 21, 2009; and
- (g) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the Court Reporters, Denece Graham and Yvonne Hyde-Gier;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with canyon County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 26th day of January, 2010.



MOLLY J. HUSKEY
State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 26th day of January, 2010, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

DENECE GRAHAM
COURT REPORTER
PO BOX 670
WEISER ID 83605

JOHN T BUJAK
CANYON COUNTY PROSECUTORS OFFICE
1115 ALBANY
CALDWELL ID 83605

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
PO BOX 83720
BOISE ID 83720 0010

Hand delivered to Attorney General's mailbox at Supreme Court


HEATHER R. LEWIS
Administrative Assistant

MJH/TMF/STB/hrl

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,)	
)	
Plaintiff-)	
Respondent,	)	Case No. CR-08-30874*C
)	
-vs-)	
	)	CERTIFICATE OF EXHIBITS
ANICETO BETANCOURT, IV.,)	
)	
Defendant-)	
Appellant.)	

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify the following exhibits were used at the Jury Trial:

State's Exhibits:

1 – 1A	DVDs	Admitted	Sent
2	Controlled Substance Analysis	Admitted	Sent
3	Blood Tox Report	Admitted	Sent
4 – 5	Photographs	Admitted	Sent

The following are also being sent as exhibits as requested in the Amended Notice of Appeal:

Presentence Investigation Report

Substance Abuse Evaluation

Letter to Defendant Stating Documents Sent to P.D., Received 7-23-09

CERTIFICATE OF EXHIBITS

000186

Medication Record, Received 11-19-09

Medical Records, Received 12-21-09

Preliminary Hearing Transcript, Held 10-30-08

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
the said Court at Caldwell, Idaho this 19 day of March, 2010.

WILLIAM H. HURST, Clerk of the District
Court of the Third Judicial
District of the State of Idaho,
in and for the County of Canyon.

By:

J. Randall Deputy

CERTIFICATE OF EXHIBITS

000187

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IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,)	
)	
Plaintiff-	)	Supreme Court No. 37139
Respondent,)	
	)	CERTIFICATE OF SERVICE
-vs-)	
)	
ANICETO BETANCOURT, IV.,)	
)	
Defendant-)	
Appellant.)	

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that I have personally served or had delivered by United State's Mail, postage prepaid, one copy of the Clerk's Record and one copy of the Reporter's Transcript to the attorney of record to each party as follows:

Molly Huskey, State Appellate Public Defender's Office,
3647 Lake Harbor Lane, Boise, Idaho 83703

Lawrence G. Wasden, Attorney General, Statehouse, Boise, Idaho 83720

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal
of the said Court at Caldwell, Idaho this 19 day of March, 2010.

WILLIAM H. HURST, Clerk of the District
Court of the Third Judicial
District of the State of Idaho
in and for the County of Canyon.

By: Randell Deputy

CERTIFICATE OF SERVICE